

Council Report

Ward(s) affected: Normandy

Report of the Managing Director

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Local Government Act 1972 (Section 91) Normandy Parish Council

Executive summary

The Council has been informed that seven parish councillors have resigned recently from Normandy Parish Council.

The statutory notices of vacancy have been published and we have received written requests for an election to fill the vacancies from the required minimum of ten electors residing within the parish. The election will take place on 6 May 2021.

The effect of these resignations is that the Parish Council is now inquorate – with two remaining parish councillors – and unable to meet lawfully to transact the business of the Parish Council. The quorum for all parish councils is three, or one-third of the total membership of the parish council, whichever is the greater.

This report asks the Council to make an order under Section 91 Local Government Act 1972 to make temporary appointments to Normandy Parish Council to fill some or all of the vacancies pending the outcome of the election. The effect of making the temporary appointments is to enable the Parish Council to conduct its business lawfully.

As this is the first occasion that a local parish council has become inquorate for many years, it is proposed that the Council delegates its power to make Section 91 orders to the Managing Director, in consultation with the Leader of the Council, political group leaders, local ward councillors, and the Monitoring Officer. It is also proposed that the Council adopts a procedure for dealing with inquorate parish councils in the future, a copy of which is set out in Appendix 1.

Recommendation to Council:

- (1) That an order be made under Section 91 of the Local Government Act 1972, the effect of which is to appoint on a temporary basis the following persons to fill four of the vacancies on Normandy Parish Council so that the Parish Council is quorate and can continue to act:

- Councillor David Bilbé
- Councillor Bob McShee
- Councillor Ramsey Nagaty
- Councillor Fiona White

(2) That authority be delegated to the Managing Director, in consultation with the Leader of the Council, political group leaders, local ward councillor(s), and the Monitoring Officer, to make orders under Section 91 of the Local Government Act 1972 should a similar situation arise in future in respect of any parish council in the borough, following the procedure set out in Appendix 1 to this report.

Reasons for Recommendation:

(1) Section 91 of the Local Government Act 1972 allows the Borough Council to appoint a sufficient number of persons to act as parish councillors on a temporary basis, to enable the work of the Parish Council to continue until it has a sufficient number of elected parish councillors to be quorate.

(2) To enable the Borough Council to act quickly in the future should any parish council within the borough become inquorate.

Is this report (or part of it) exempt from publication? No

1. Purpose of Report

1.1 To ask the Council to exercise its powers under Section 91 of the Local Government Act 1972 by authorising the making of an order to appoint persons to Normandy Parish Council on a temporary basis, to enable the parish council to function pending the outcome of the election on 6 May 2021 to fill the vacancies.

2. Background

2.1 The composition of Normandy Parish Council is nine parish councillors. Between 5 and 15 February 2021, we were informed that seven of the nine parish councillors had resigned, including the chairman.

2.2 The statutory notices in respect of the vacancies have been published and displayed locally on parish notice boards and on the parish council's website and the Borough Council's website. Under The Local Elections (Parishes and Communities) (England & Wales) Rules 2006, if ten or more local government electors within the Normandy parish request an election to fill the vacancies within 14 working days of the date of the notice, an election will be held. At the time of writing this report, ten valid requests have been received and an election to fill the vacancies will take place on 6 May 2021.

2.3 The effect of these resignations is that, until the elections are held and the new parish councillors take office, the Parish Council is inquorate – with two remaining parish councillors – and unable to meet lawfully to transact the business of the Parish Council. The quorum for all parish councils is three, or one-third of the total membership of the parish council, whichever is the greater.

3. Order under Section 91 Local Government Act 1972

- 3.1 In circumstances where there are so many vacancies in the office of parish councillor that the parish council is unable to act, the relevant district council may by order, under Section 91 of the Local Government Act 1972, appoint persons to fill all or any of the vacancies until other councillors are elected and take up office.
- 3.2 The Act does not define “persons”, but conventionally other councils in similar circumstances (and in two-tier areas) include, as appointees, the local borough councillor(s) representing the ward in which the parish is located, and/or the local county councillor whose division includes the relevant parish. Where additional persons are required, the Council has discretion as to whom it should appoint.
- 3.3 Following consultation with political group leaders, it was felt that bearing in mind that there remained two parish councillors, it would be appropriate to consider making four temporary parish councillor appointments, bringing the total number to six, thereby making the parish council quorate again.
- 3.4 Following further discussion within individual groups, it was proposed that Councillor David Bilbé, Councillor Keith Witham (County Councillor for the Worplesdon division which covers Normandy parish), plus Councillors Bob McShee and Fiona White should be appointed persons.
- 3.5 Councillor Keith Witham was approached regarding his possible appointment and he has indicated that he would have been happy to accept, but he has reservations given that he will be seeking re-election to the County Council at the same time as the elections are due to take place to Normandy Parish Council. He has therefore declined the offer. In view of this, the Leader of the Council has asked Councillor Ramsey Nagaty to be considered for appointment and he has accepted.

4. Proposed Procedure for dealing with inquorate parish councils

- 4.1 Under the Constitution, there are currently no delegated powers for an officer to make orders under Section 91 to temporarily appoint parish councillors until elections take place. Neither is it within the remit of the Executive or any other Committee.
- 4.2 Other principal councils have adopted procedures for dealing with inquorate parish councils to enable the necessary appointments to bring a parish council into a quorate state as quickly as possible, without the need to bring a report each time to a full council meeting.
- 4.3 The Council is therefore invited to consider delegating authority to make Section 91 orders to the Managing Director, in consultation with the Leader of the Council, political group leaders, local ward councillor(s), and the Monitoring Officer, in accordance with the proposed procedure set out in **Appendix 1**.

5. Financial Implications

- 5.1 There are minimal costs involved in drawing up the necessary order which can be met from existing budgets.

6. Legal Implications

- 6.1 Paragraph 12 of Part II of Schedule 12 to the 1972 Act states that: “

“...no business shall be transacted at a meeting of a parish council unless at least one-third of the whole number of members of the council are present at the meeting; but....in no case shall the quorum be less than three”.

Therefore, with only two parish councillors remaining, Normandy Parish Council is inquorate and currently unable to transact business at least until after the elections on 6 May 2021.

- 6.2 The Council is empowered under Section 91 of the 1972 Act to make an order to appoint persons as parish councillors on a temporary basis to fill all or any of the vacancies until other councillors are elected and take up office.
- 6.3 There are no qualifying/disqualifying criteria for such appointments (for example as to whether an appointee must be an elector living in the relevant parish). As stated in paragraph 3.2 above, the 1972 Act specifically refers to ‘persons’, and there is no description as to who would qualify – so it is open to the Council who appoint whomever it considers appropriate. This could theoretically include officers; however, it would seem more appropriate to appoint councillors to the role and only consider officers as a last resort.
- 6.4 Appointees do not have to make a declaration of acceptance of office.
- 6.5 If a sufficient number of parish councillors are elected to form a quorum (three), the temporary appointments will terminate immediately upon the newly elected parish councillors taking office.
- 6.6 Under Section 91 (3) of the 1972 Act, we are required to send two copies of the order to the Secretary of State.

7. Human Resource Implications

- 7.1 There are no human resource implications arising from the proposals contained in this report.

8. Equalities Implications

- 8.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 8.2 The contents of this report do not directly impact on equality, in that it is not making proposals that will have a direct impact on equality of access or outcomes for diverse groups.

9. Summary of Options

- 9.1 The Council could choose not to exercise its powers under Section 91, but this would leave Normandy Parish Council inquorate and unable meet to discharge its functions at least until after the newly elected parish councillors take office following the 6 May elections. This option is not recommended.
- 9.2 The Council is recommended to use its powers under Section 91 and appoint persons to act as parish councillors until such time as the elected councillors are able to meet as a quorate parish council.

10. Background Papers

None

11. Appendices

Appendix 1: Procedure for dealing with inquorate parish councils