

Report of Head of Licensing and Registration

Report to General Purposes Committee

Date: 25 June 2012

Subject: Community Governance Review to consult on proposals to increase the number of parish councillors for Scarcroft parish council

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Harewood		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number:		

Summary of main issues

1. The Council received a request from Scarcroft Parish Council on 2 April 2012 to increase the size of the Parish Council from 7 to 9 councillors.
2. Following the receipt of such a request the Council is required to consider undertaking a Community Governance Review.
3. This report outlines the process and timetable for such a Community Governance Review.

Recommendations

4. That the process and timetable for the review as detailed in the report and attached Terms of Reference be approved.

1 Purpose of this report

- 1.1 To consider the terms of reference, timetable and process for a Community Governance Review following the receipt of a request from Scarcroft Parish Council to increase the size of the Parish Council from 7 to 9 Councillors.

2 Background information

- 2.1 The Council received a letter from the clerk to Scarcroft parish council on 2 April 2012. Following the receipt of such a request the Council is required to consider undertaking a Community Governance Review. A copy of the request is attached at Appendix A.
- 2.2 The request was submitted in accordance with Part 4 of the Local Government and Public Involvement in Health Act 2007 (the Act).
- 2.3 Before the Act came into force, Councils had power to vary the numbers on local parish councils by making an order. Procedures were not prescriptive and numbers on parish councils, or other Parish electoral arrangements, could be varied easily and quickly. Unfortunately this is no longer the case and the procedures prescribed for community governance reviews, set out in the 2007 Act, have to be followed even when the only issue to be considered is a variation in a parish council's numbers.
- 2.4 The Act allows for the public to petition for reviews in their areas. It is, however, not necessary for a petition to be received to initiate a review. Scarcroft Parish Council has requested an increase in its numbers and it is for the Council to decide whether it wishes to undertake a review of the Scarcroft parish area with a view to increasing the size of the parish council.
- 2.5 If the Council decides to undertake a review, the review must make recommendations as to what new parish or parishes (if any) should be constituted in the area under review. In relation to existing parishes under review, the review must also make recommendations as to whether the parish should be abolished or not, or its area altered or not, whether or not the name of the parish should be changed, and whether or not the parish should continue to have a council. However, if the parish has 1,000 or more local government electors, the review must recommend that the parish should have a council. If the review recommends a parish should continue to have a parish council, the review must also make recommendations as to what changes (if any) should be made to the council's electoral arrangements (which include the number of councillors to be elected to the council).
- 2.6 The Council has the power to undertake a community governance review of the whole or part of its area. As a result, the Council could commence a separate review of a wider area than Scarcroft if it so wished, and could then make recommendations as to new parishes, the aggregation of parishes, or the alteration or abolition of parishes in a wider part of its area.

3 Main issues

- 3.1 In their request, the Parish Council state that they currently have 7 members following their last review in 2004. In more recent years they report that they have found the emerging responsibilities of the Localism Act and Planning Policy along with other public measures an increasing burden. The Parish Council states that it is finding it difficult to cover a wide range of meetings and training requirements with their current number of parish councillors. This is further compounded by the need to accommodate leave entitlement and fact that 5 of the current parish councillors work during the day and therefore have limited availability.
- 3.2 Scarcroft Parish Council has put forward a reasoned request for an increase in numbers. There is no formal guidance on the size of parish councils, but the minimum number is 5. The DCLG reports that, nationally, local councils representing the following electorates have, typically, the number of councillors stated:
- Less than 500 — between 5 and 8 councillors
 - Between 501 and 2,500 — between 6 and 12 councillors
- 3.3 The 1972 Act, as amended, specifies that each parish council must have at least five councillors; there is no maximum number. The Electoral Commission has no reason to believe that this pattern of council size to population has altered significantly since the research was conducted. Although not an exact match, it broadly reflects the council size range set out in the National Association of Local Councils Circular 1126; the Circular suggested that the minimum number of councillors for any parish should be 7 and the maximum 25.
- 3.4 Scarcroft has 1,010 electors. It should also be noted that the electorate is due to increase in numbers if the housing the parish council refers to in its letter proceeds. In the light of the reasons put forward by the Parish Council, officers consider that a review should proceed.
- 3.5 When a request such as this is received, if the Council decides to undertake a Community Governance Review, it must do so within 12 months. In these circumstances the stages of the Review are as follows: -
- Terms of Reference for the Review Agreed (the reason for this report)
 - Council consults widely with local people on proposal
 - Council takes into account any representations received
 - Council makes recommendations whether there should be an increase to the number of parish councillors
 - Council publishes its decision
 - Interim governance arrangements agreed

- Election held (the timetable for the review has been set so the elections for any new parish councillors can coincide with the Police and Crime Commissioner elections in November 2012 to help reduce costs)

- 3.6 The first stage of the Review as prescribed by the Act is to establish the terms of reference which will set out the matters on which the review is to focus. Draft terms of reference are attached as Appendix B to the report. This document includes a timetable for the review. It is proposed that the results of the consultation and recommendations in terms of draft proposals be reported to General Purposes Committee who will make final proposals to be agreed by Full Council.
- 3.7 When undertaking a Community Governance Review a principal council must have regard to guidance issued by the Secretary of State and the Electoral Commission. The stages outlined above take account of the requirements of the legislation and the available guidance. However, subject to this, it is for the Council to decide how to undertake the review. In deciding what recommendations to make, the Council must take into account any other arrangements (apart from those relating to parishes) that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review.
- 3.8 In order for any required election to take place jointly with the Police and Crime Commissioner elections on 15 November 2012, this review would need to be finalised by no later than 5 October in order to make the necessary changes to the registers before publication on 16 October. Also, it should be noted that the last date for publication of Notice of Election for a parish election to take place on 15 November is 11 October, after this date the election could not take place on 15 November. This makes the timetable outlined in Appendix B critical with no allowance for any slippage.
- 3.9 Involvement of Elections Working Group (EWG) – During previous polling district reviews, General Purposes Committee has asked EWG to act as a dedicated Working Group for those reviews, recommending proposals to General Purposes Committee for their consideration. It should be noted that the EWG has an extensive knowledge of electoral procedures and is the main consultation forum for officers and Members to discuss electoral issues. It is proposed that EWG co-ordinate representations for this Community Governance Review in a similar manner, considering representations made by the public or other stakeholders, and be used as a vessel to discuss any representations submitted. The views of EWG will be presented to General Purposes Committee for their consideration, together with details of representations made as described in 4.1 below and the Committee will then determine the recommendations to be made in respect of the Community Governance Review to Full Council for a decision.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 All local government electors for the area under review and any other person or body who appears to have an interest in the review will be consulted on the

proposal and their representations will be taken into account as part of the review. The council must have regard to the need to secure that the community governance arrangements for the area reflects the identities and interests of the community in the area and are effective and convenient.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An equality screening document has been completed for this review and has concluded that the consultation arrangements will help ensure all people affected by the review are given an opportunity to comment which will address any equality, diversity, cohesion or integration issues raised.

4.3 Council policies and City Priorities

4.3.1 This review does not affect the council's budget and policy framework, although reviewing local electors needs does support the council's aims to be the best city for communities, and in particular the four year priority to increase a sense of belonging that builds cohesive and harmonious communities.

4.4 Resources and value for money

4.4.1 No additional human resources are required to carry out the review.

4.4.2 There is no budget to carry out Community Governance Reviews so the cost of this review will have to be met from within existing budget. The cost of carrying out this review is estimated at £1,000. This is mainly costs from printing and publishing Notices in local press.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Under the Constitution, the Council has delegated authority to the Chief Executive to discharge the following Council (non executive) functions namely: -

“ ...

- (k) Functions relating to community governance¹
 - (i) Duties relating to community governance reviews
 - (ii) Functions relating to community governance petitions
 - (iii) Functions relating to terms of reference of review
 - (iv) Power to undertake a community governance review
 - (v) Duties when undertaking review
 - (vi) Duty to publicise outcome of review
 - (vii) Duty to send two copies of order to Secretary of State and Electoral Commission.”

4.5.2 If the Chief Executive chooses not to exercise that delegated authority, he may refer the matter to General Purposes Committee, who have authority: -

¹ Functions relating to making of recommendations under section 87 – 92 of the Local Government and Public Involvement in Health Act 2007 (Item 5 Paragraph EB of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853) are reserved to the relevant committee that is responsible for making recommendations to full Council.

“to consider and determine Council (non executive) functions delegated to a Director where the Director has decided not to exercise the delegated authority and has referred the matter to the committee.”

- 4.5.3 There is no provision similar to that regarding executive functions that allows the relevant Executive Member to require the “Director” to not exercise the delegated authority but to take a matter to Executive Board.
- 4.5.4 However, the Chief Executive has the opportunity to consult with the relevant Member(s), before deciding whether to exercise his delegated authority or alternatively himself choose to refer the matter to General Purposes Committee.
- 4.5.5 Therefore any community governance review under the existing constitutional provisions can be determined by the Chief Executive, or he has the alternative to refer the matter to General Purposes Committee, who themselves make final recommendations to Full Council.
- 4.5.6 The Chief Executive has chosen to refer this matter to GPC to the extent set out in this report.
- 4.5.7 However, General Purposes Committee alone has the delegated authority to make recommendations for the final proposals for any Community Governance Review to Full Council. This is not delegated to the Chief Executive.

4.6 Risk Management

- 4.6.1 There is always a risk of challenge to the decision. There is no right to appeal as such, although if local electors disagreed with the final recommendations they could lobby the full Council not to give effect to them, or a decision by full Council could be challenged by way of judicial review on the usual principles.

5 Conclusions

- 5.1 That a request has been received from the existing Scarcroft Parish Council asking the council to consider a Community Governance Review to increase the number of parish councillors from 7 to 9.

6 Recommendations

- 6.2 That the process and timetable for the review as detailed in the report and attached Terms of Reference be approved.

7 Background documents²

- Local Government and Public Involvement in Health Act 2007
- The Electoral Commission Guidance on Community Governance Reviews, April 2008

² The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

Review of Parishes and Related Matters Local Government and Public Involvement in Health Act 2007

Terms of Reference

Introduction

Following the receipt of a request from Scarcroft parish council the Council will undertake a Community Governance Review of Scarcroft.

The request for the Community Governance Review was submitted in accordance with the Local Government and Public Involvement in Health Act 2007 and proposes to increase the number of parish councillors from 7 (seven) to 9 (nine).

In undertaking the review, the Council will be guided by the relevant parts of the Local Government Public Involvement in Health Act 2007, the relevant parts of the Local Government Act 1972 and Guidance on Community Governance Reviews issued by the Department of Communities and Local Government and the Electoral Commission.

These terms of reference will set out the matters on which the review is to focus.

Why is the Council Undertaking the Review?

The Review is to be undertaken due to the receipt of a request from the existing parish council. The council, although not required to carry out a review, has decided that a review should be carried out in the interests of local electors to ensure the community governance arrangements for the area reflects the identities and interests of the community in the area and are effective and convenient.

The recommendation within the request is to increase the number of parish councillors from 7 (seven) to 9 (nine). The existing parish council put forward that the emerging responsibilities from new legislation would be best served by increasing the number of parish councillors for Scarcroft.

As the request was agreed by the Council it will undertake a Review in accordance with the Local Government and Public Involvement in Health Act 2007.

A copy of the request put forward by the parish council and a map defining the area of the parish are attached as appendices to these terms of reference.

What will the Review consider?

The Review is to consider the creation of 2 (two) new parish councillors. The review will need to consider the effect on current electoral arrangements including any warding arrangements.

The review must make recommendations as to what new parish or parishes (if any) should be constituted in the area under review. In relation to existing parishes under review, the review must also make recommendations as to whether the parish should be abolished or not, or its area altered or not, whether or not the name of the parish should be changed,

and whether or not the parish should continue to have a council. However, if the parish has 1,000 or more local government electors, the review must recommend that the parish should have a council. If the review recommends a parish should continue to have a parish council, the review must also make recommendations as to what changes (if any) should be made to the council's electoral arrangements (which include the number of councillors to be elected to the council).

In relation to the council's electoral arrangements, the review must consider whether to recommend that the parish should, or should not, be or continue to be divided into wards for the purpose of electing councillors. For these purposes, the Council must consider whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient, and whether it is desirable that any area or areas of the parish should be separately represented on the council. In deciding to recommend that a parish should be divided into wards, the Council must have regard to certain factors when considering the size and boundaries of the wards, and the number of councillors to be elected for each ward. These factors are the number of local government electors for the parish, any change in the number, or distribution, of the local government electors which is likely to occur in the period of five years from the start of the review, the desirability of fixing boundaries which are, and will remain, easily identifiable, and any local ties which will be broken by the fixing of any particular boundaries. In deciding to recommend that a parish should not be divided into wards, the Council must have regard to certain factors when considering the number of councillors to be elected for the parish. These factors are the number of local government electors for the parish, and any change in that number which is likely to occur in the period of five years from the start of the review.

In deciding what recommendations to make, the Council must take into account any other arrangements (apart from those relating to parishes) that have already been made, or that could be made for the purposes of community representation or community engagement in respect of the area under review.

All local government electors for the area under review and any other person or body who appears to have an interest in the review will be consulted on the proposal and their representations will be taken into account as part of the review. The council must have regard to the need to secure that the community governance arrangements for the area reflects the identities and interests of the community in the area and are effective and convenient.

Parish Governance within the District

The Council wants to ensure that there is clarity and transparency to the areas that parish councils represent and that the electoral arrangements are appropriate, equitable and readily understood by the electorate.

In their White Paper, Strong and Prosperous Communities, the Government emphasised that "Ultimately, the recommendations made in a community governance review ought to bring about improved community engagement, more cohesive communities, better local democracy and result in more effective and convenient delivery of local services."

Who undertakes the Review?

Community Governance Reviews are the responsibility of the Head of Licensing and Registration who will report representations received during the review period along with draft and final recommendations. The Council's General Purposes Committee will determine the recommendations to be made to full Council in relation to the Review.

How the Council proposes to conduct consultations during the Review?

In arriving at its recommendations in a review, the Council will need to take account of the views of local people. The Local Government and Public Involvement in Health Act 2007 requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the review (for instance the local Member of Parliament and ward councillors) and to take the representations that are received into account by judging them against the criteria in the Local Government and Public Involvement in Health Act 2007.

The Council will consult in an appropriate manner within the review area ensuring that those affected are given the opportunity to respond. In accordance with the Local Government and Public Involvement in Health Act 2007, representations received in connection with the Review will be taken into account, and consultees will be informed of the outcome of the Review.

Any decisions made and the reasons for those decisions will be published following the review. The mechanism for this will be through the Council's website, issuing press releases, personal communications where appropriate and through notices in libraries in the area affected by the review.

How to contact us or make a representation

Contact details at the Council for the duration of the review are as follows. Any representations should also be sent to this address. Representations should include the full name and contact details for the person or organisation making the representation: -

Susanna Benton
Electoral Services Manager
susanna.benton@leeds.gov.uk
0113 2476727

Electoral Services
Level 2, Town Hall
The Headrow
Leeds LS1 3AD

A timetable for the Review

02 April 2012	Request Received by Chief Executive
25 June 2012	Report to General Purposes Committee Terms of Reference and Timetable for Review to be approved
26 June 2012	Council to publish Terms of Reference

26 June 2012	Consultation begins with representations invited
31 July 2012	Closing date for representations (five week consultation period)
August 2012	Elections Working Group consider representations on proposals and recommend final proposals to General Purposes Committee
29 August 2012	General Purposes Committee consider recommendations from Elections Working Group and agree final recommendations for Full Council
12 September 2012	Full Council to approve final proposals and Reorganisation of Community Governance Order. Council publishes decision, reasons for decision, and informs persons interested.
13 September 2012	Additional parish councillors established if necessary and interim governance arrangements put in place
15 November 2012	Elections of new Parish councillors (to coincide with Police and Crime Commissioner Elections) if necessary

Please note the timetable is subject to minor alteration although the Review must be completed within 12 months of the publication of the terms of reference

Electorate Forecasts

The latest Register of Electors published on 1 June 2012 shows the following numbers of electors within the area subject to the Review: 1,010.

When the Council comes to consider the electoral arrangements of the parishes in its area, it is required to consider any change in the number or distribution of the electors which is likely to occur in the period of five years beginning with the day when the review starts.

Viability of any new Parish

The Council recognises that parishes should be viable and should possess a precept that enables them to actively and effectively promote the well-being of their residents and to contribute to the real provision of services in their areas in an economic and efficient manner. The Council is committed to ensuring that the Review leads to parishes that are based on areas which reflect community identity and interest and which are viable as an administrative unit.

Electoral arrangements

An important part of our Review will comprise giving consideration to 'Electoral Arrangements'. The term covers the way in which a council is constituted for the parish. It covers:

- The ordinary year in which elections are held
- The number of councillors to be elected to the council;
- The division (or not) of the parish into wards for the purpose of electing councillors;
- The number and boundaries of any such wards;

- The number of councillors to be elected for any such ward; and
- The name of any such ward.

The Local Government Act 1972 states that ordinary election of parish councillors shall take place in 1976, 1979 and every fourth year thereafter (i.e. 2007, 2011, 2015, etc) However, the government has indicated that it would want the parish electoral cycle to coincide with the cycle for the district council, so that the costs of elections can be shared. If the Review finds that it will be appropriate to hold an election for parish councillors, for a newly formed parish, at an earlier date than the next scheduled ordinary elections, the terms of office of any newly elected parish councillors will be so reduced as to enable the electoral cycle to revert to the normal cycle in the district at the next ordinary elections.

The Council notes that the number of parish councillors for each parish council shall not be less than five. There is no maximum number and there are no rules relating to the allocation of councillors.

Government guidance is that each area should be considered on its own merits, having regard to its population, geography and the pattern of communities.

The Council must have regard to the following factors when considering the number of councillors to be elected for a parish:

- The number of local government electors for the parish;
- Any change in that number which is likely to occur in the period of five years beginning with the day when the review starts.

The Council wishes to ensure that the allocation of councillors to parishes is broadly equitable across the District, while acknowledging that local circumstances may occasionally merit variation.

The Council appreciates that there are different demands and consequently different levels of representation between the urban and rural parishes in the district.

Reorganisation of community governance orders and commencement

When the Review has been completed the Council may make a Reorganisation of Community Governance Order. Copies of this Order, the map(s) that show the effects of the order in detail, and the document(s) which set out the reasons for the decisions that the Council has taken (including where it has decided to make no change following a Review) will be deposited at the Council's offices, on the website and in local libraries within the area affected by this review.

Consequential Matters

The Council notes that a Reorganisation Order may cover any consequential matters that appear to the Council to be necessary or proper to give effect to the Order. These may include:

- The transfer and management or custody of property;

- The setting of precepts for new parishes;
- Provision with respect to the transfer of any functions, property, rights and liabilities;
- Provision for the transfer of staff, compensation for loss of office, pensions and other staffing matters.

In these matters, the Council will be guided by Regulations that have been issued following the 2007 Act.

In particular, the Council notes that the Regulations regarding the transfer of property, rights and liabilities require that any apportionments shall use the population of the area as estimated by the proper officer of the Council as an appropriate proportion.

Furthermore, the Council notes the Regulations regarding the establishment of a precept for a new parish and their requirements. Parish Councils have the power to raise revenue to help meet their spending requirements by issuing a 'Precept'. This is the total amount to be raised through the Council Tax from all the dwellings within the defined Parish area.

Each Parish Council set their own level of precept and let the principal council know each year. Typically this is to cover costs associated with the running and administration of the parish, such as the Clerks wages etc, as well as any local projects.

Date of publication of terms of reference

John Mulcahy
Head of Licensing and Registration
26 June 2012