

Report of Head of Licensing and Registration

Report to General Purposes Committee

Date: 28 October 2013

Subject: Proposed Community Governance Review to degroup Barwick in Elmet and Scholes Parish Councils

| | | |
|---|---|--|
| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): Harewood Ward (Barwick in Elmet and Scholes Parish Council) | | |
| Are there implications for equality and diversity and cohesion and integration? | <input checked="" type="checkbox"/> Yes | <input 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 petition from electors in polling district HAJ, the Scholes Ward of Barwick in Elmet and Scholes Parish Council asking for the degrouping of that Parish Council.
2. The petition has been validated by Electoral Services staff and meets the requirements of the Local Government and Public Involvement in Health Act 2007.
3. Following the receipt of a valid petition the Council is required to consider undertaking a Community Governance Review.
4. This report outlines the options for considering whether to approve a Community Governance Review, and the process involved and timetable for such a Community Governance Review.

Recommendations

5. That the options be considered, and a decision taken as to whether a Community Governance Review should take place.
6. That if the decision is taking to carry out a Community Governance Review, 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 whether a Community Governance Review for the degrouping of Barwick in Elmet & Scholes Parish Council be undertaken.
- 1.2 If a decision is taken to undertake a review, to consider the terms of reference, timetable and process for a Community Governance Review following the receipt of a petition from electors in polling district HAJ, the Scholes Ward of Barwick in Elmet & Scholes Parish Council.

2 Background information

- 2.1 The Council received a valid petition from electors in polling district HAJ, the Scholes Ward of Barwick in Elmet & Scholes Parish Council on 20 August 2013. Following the receipt of a petition the Council is required to consider whether or not to undertake a Community Governance Review.
- 2.2 The petition was submitted in accordance with the Local Government and Public Involvement in Health Act 2007.
- 2.3 The area covered by the review has 2,016 local Government electors and as such would need any petition to be signed by at least 250 of those electors in accordance with the Local Government and Public Involvement in Health Act 2007¹. The petition has been signed by 544 local government electors in the area affected by the review.
- 2.4 The petition defines in words the desire to degroup the Parish of Barwick in Elmet and Scholes.
- 2.5 The recommendation within the petition is to create a separate parish defined by the current Scholes Ward of Barwick in Elmet and Scholes Parish Council namely Scholes Parish Council.
- 2.6 This would result in the remaining part of the Barwick in Elmet and Scholes Parish Council being a separate Barwick in Elmet Parish Council, defined by the current Barwick Ward, which has 2,109 electors.
- 2.7 A principal council is under a duty to carry out a community governance review if it receives a valid community governance petition for the whole or part of the council's area. However, the duty to conduct a review does not apply if:
 - (a) the principal council has concluded a community governance review within the last two years which in its opinion covered the whole or a significant part of the area of the petition or
 - b) the council is currently conducting a review of the whole, or a significant part of the area to which the petition relates

¹ Section 80 (3) (c) - If the petition area has between 500 and 2,500 local government electors, the petition must be signed by at least 250 of the electors

- 2.8 Where a review has been conducted within the last two years the principal council still has the power to undertake another review if it so wishes. Where a review is ongoing, the council can choose to modify the terms of reference of the ongoing review to include the matters within the petition, or to conduct a second review.
- 2.9 Otherwise, the 2007 Act provides for a Principal Council to conduct a community governance review at any time.

3 Main issues

- 3.1 The Council opted to carry out a full Community Governance Review of Parish and Town Councils commencing on 18 February 2013.
- 3.2 This review included the area of Barwick in Elmet and Scholes Parish Council.
- 3.3 No representations were received during the consultation stages relating to the degrouping of the Parish.
- 3.4 It is therefore the decision of General Purposes Committee as to whether to carry out the review requested in the petition from the electors in Scholes Ward of Barwick in Elmet and Scholes Parish Council, bearing in mind the options outlined in 2.7 to 2.9 above.
- 3.5 Should the decision be taken to carry out the review, the review must be carried out in accordance with the Local Government and Public Involvement in Health Act 2007, which states the Council is required to undertake a review within 12 months. In these circumstances, the stages of the review are as follows:-
- Petition validated (the petition has already been validated by Electoral Services)
 - Terms of Reference for the Review Agreed (part of the purpose of this report)
 - Council consults widely with local people on proposal
 - Council takes into account any representations received
 - Council makes recommendations whether the degrouping of Barwick in Elmet and Scholes Parish should be implemented
 - Council publishes its decision
 - Interim governance arrangements agreed and precept set
 - Election held
- 3.6 The first stage of the Review as prescribed by the Local Government and Public Involvement in Health Act 2007 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 A 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 Local Government Boundary Commission for England. 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 Involvement of Elections Working Group (EWG) – During previous polling district reviews and community governance 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 contentious 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.

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 reflect 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 governance²
- (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: -

“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

² 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.

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 General Purposes Committee.

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 validated petition from electors in the area has been received and that the council is bound to consider whether to carry out a Community Governance Review to determine whether the degrouping of Barwick in Elmet and Scholes Parish Council should occur.

6 Recommendations

6.1 That a decision is taken as to whether a Community Governance Review should take place.

6.2 That if the decision is taken to carry out a review, the draft terms of reference and timetable for the Community Governance Review as set out in Appendix A to the report be approved.

7 Background documents³

None Used

³ 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 petition the Council will undertake a Community Governance Review of Barwick in Elmet and Scholes Parish Council.

The Petition for the Community Governance Review was submitted in accordance with the Local Government and Public Involvement in Health Act 2007 and proposes the degrouping of Barwick in Elmet and Scholes Parish Council.

In undertaking the review, the Council will be guided by Part 4 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 valid petition from electors in the area subject to the review. The petition meets the following conditions of Section 80 of the Local Government and Public Involvement in Health Act 2007:

- (3) The petition must be signed as follows:
 - (a) If the petition area has fewer than 500 local government electors, the petition must be signed by at least 50% of the electors.
 - (b) If the petition area has between 500 and 2500 local government electors, the petition must be signed by at least 250 of the electors;
 - (c) If the petition area has more than 2500 local government electors, the petition must be signed by at least 10% of the electors.
- (4) The petition must:
 - (a) define the area to which the review is to relate (whether on a map or otherwise); and
 - (b) specify one or more recommendations which the petitioners wish a community governance review to consider making.

- (5) If the specified recommendations include the constitution of a new parish, the petition must define the area of the new parish (whether on a map or otherwise).
- (6) If the specified recommendations include the alteration of the area of an existing parish, the petition must define the area of the parish as it would be after alterations (whether on a map or otherwise).

The area subject to the review has 2,016 local government electors and as such would need to be signed by at least 250 of those electors. The petition has been signed by 544 local government electors within the petition area.

The petition defines in words the area to which the review is to relate. The degrouping of Barwick in Elmet and Scholes Parish Council would result in the current Scholes Ward (HAJ) becoming a Parish Council in its own right "Scholes Parish Council" and the remaining Barwick Ward (HAF) becoming "Barwick Parish Council".

As the petition was found to be valid the Council will undertake a Review in accordance with Section 83(2) of the Local Government and Public Involvement in Health Act 2007.

A copy of the submissions put forward by local government electors are available for inspection at the address below.

What will the Review consider?

The Review is to consider the degrouping of an existing Parish.

The review must make recommendations as to whether the parish should be degrouped or not. As this proposed parishes as a result of degrouping will each have 1,000 or more local government electors, the review must recommend that the parishes should have a 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 parish councils).

In relation to the council's electoral arrangements, the review must consider whether to recommend that the parishes 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 parishes. These factors are the number of local

government electors for the parishes, 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 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: -

Sue Wolfe
Deputy Electoral Services Manager
sue.wolfe@leeds.gov.uk
0113 2243440

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

A timetable for the Review

| | |
|-----------------|--|
| 20 August 2013 | Petition Received by Chief Executive |
| 28 October 2013 | Report receipt of petition to General Purposes Committee Terms of Reference and Timetable for Review to be approved |
| 29 October 2013 | Council to publish Terms of Reference |
| 29 October 2013 | Consultation begins with representations invited |
| 3 December 2013 | Closing date for representations (five week consultation period) |
| December 2013 | EWG consider representations on proposals and recommend final proposals to General Purposes Committee |
| January 2014 | General Purposes Committee consider recommendations from EWG and agree final recommendations for Full Council |
| February 2014 | Full Council to approve final proposals and Reorganisation of Community Governance Order. Council publishes decision, reasons for decision, and informs persons interested. |
| February 2014 | New parish established if necessary and interim governance arrangements put in place |
| 22 May 2014 | Elections to new Parishes |

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 October 2013 shows the following numbers of electors within the area subject to the Review: 2,016 (Scholes Ward) and 2,109 (Barwick Ward) total 4,125.

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.

Names and styles of any new parishes

The Council will endeavour to reflect existing local or historic place-names, and will give a strong presumption in favour of names proposed in the petition and by local interested parties

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 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

29 October 2013