

Report of Head of Licensing and Registration

Report to General Purposes Committee

Date: 23 October 2014

Subject: Community Governance Review for the creation of a Town Council for Guiseley

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Guiseley & Rawdon		
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 petition from electors in polling districts from the Guiseley & Rawdon ward on 29 August asking for the creation of a new Town Council for Guiseley.
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. The Council concluded a full review of Parish and Town Council arrangements in November 2013. Legislation states that the duty on the Council to carry out a Community Governance Review upon receipt of a valid petition does not apply if the Council has concluded a Community Governance Review within the last two years although they still have the power to undertake another review should they so wish.
4. This report outlines the options available to the Council and the process and timetable for undertaking a Community Governance Review should this be agreed to.

Recommendations

5. That General Purposes Committee considers the petition from electors in the Guiseley and Rawdon ward to establish a Town Council for Guiseley and decide whether or not to undertake a Community Governance Review, and in the event of a decision to conduct a review;
6. To consider and approve the terms of reference, process and timetable set out in Appendix B.

1 Purpose of this report

- 1.1 Following receipt of a valid petition to request that a Community Governance Review be undertaken to establish a Town Council for Guiseley, this report requests that a decision be taken as to whether such a review be undertaken.
- 1.2 In the event of a decision to undertake a review, this report also seeks approval to the terms of reference, timetable and process for that review.

2 Background information

- 2.1 The Council received a valid petition from electors in polling districts from the Guiseley & Rawdon ward on 29 August.
- 2.2 The petition was submitted in accordance with the Local Government and Public Involvement in Health Act 2007 (the Act).
- 2.3 The Council concluded a Community Governance Review of all Parish and Town Council arrangements in November 2013. The duty on the Council to carry out a review on receipt of a valid petition is therefore removed.
- 2.4 The Council can, however, choose to undertake the review if it so wishes.
- 2.5 The area covered by the review has 11,039 local Government electors and as such would need any petition to be signed by at least 1,104 of those electors in accordance with the Act¹. The petition has been signed by 1,179 local government electors in the area affected by the review.
- 2.6 The petition defines on a map and in words the area to which the review is to relate. A map was submitted with the petition and the geographical area is defined as that currently known as Guiseley.
- 2.7 The recommendation within the petition is to create a new Town Council called Guiseley to serve the community. The petitioners put forward that the needs of the different communities would be best served by creating a separate Town Council for Guiseley. A copy of the map illustrating the boundaries of the proposed new Town Council is attached as Appendix A.
- 2.8 A community governance review must in any event, make recommendations as to what new parish or parishes (if any) should be constituted in the area under review. If the review recommends that a new parish should be constituted, the review must also make recommendations as to the name of the new parish, whether or not the new parish should have a parish council, and whether or not the new parish should have one of the alternative styles (e.g. a Town Council as requested in the petition).

¹ Section 80 (3) (c) - If the petition area has more than 2500 local government electors, the petition must be signed by at least 10% of the electors

- 2.9 However, where a new parish has 1,000 or more local government electors, the review must recommend that the parish should have a council. This petition requests the use of one of the alternative styles (i.e. Town Council status).
- 2.10 The Council has the power to undertake a community governance review of the whole or part of its area other than in response to a valid community governance petition. As a result, the Council could commence a separate review of a wider area than the petition area 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 When a valid petition is received the Act says the Council is under a duty to carry out a Community Governance Review. However, the duty to conduct a review does not apply if:
- a) the 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.
- 3.2. Should the Council decide to undertake a review, 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
 - Council consults widely with local people on proposal
 - Council takes into account any representations received
 - Council makes recommendations whether a new parish should be implemented
 - Council publishes its decision
 - Interim governance arrangements agreed and precept set
 - Election held (the timetable for the review has been set so the elections to any new Town Council can coincide with the all-out Parish and Town Council elections due to be held on 7 May 2015)
- 3.3 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.

- 3.4 When undertaking a Community Governance Review the 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.
- 3.5 In order for any required election to take place jointly with the all-out Parish and Town Council elections on 7 May 2015, this review would need to be finalised by no later than February 2015 to be able to make the necessary changes to the registers before publication on 1 April. Also, it should be noted that the last date for publication of Notice of Election for a parish election to take place on 7 May is 2 April, after this date the election could not take place on 7 May. This makes the timetable outlined in Appendix B critical with no contingency for slippage.
- 3.6 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.
- 3.7 It is proposed that EWG coordinate 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 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 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 £2,000. 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 governance
- (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 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 must now decide whether to carry out a Community Governance Review for the creation of a Town Council for Guiseley.

6 Recommendations

- 6.1 That the General Purposes Committee considers the petition from electors in the Guiseley and Rawdon ward to establish a Town Council for Guiseley and decide whether or not to undertake a Community Governance Review, and, in the event of a decision to conduct a review being made,
- 6.2 To consider and approve that the terms of reference, process and timetable set out in Appendix B.

7 Background documents