

**Report of the Head of Licensing and Registration**

**Report to General Purposes Committee**

**Date: 5 January 2011**

**Subject: Interim Review of Polling Arrangements for Garforth & Swillington and Calverley & Farsley Wards – Initial Proposals Report**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Garforth & Swillington, Calverley & Farsley	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
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? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**Summary of main issues**

1. Representations have been received from the Clerk to Swillington Parish Council, and the ward Councillors who represent Garforth & Swillington, to alter the existing polling arrangements for the ward.
2. A representation has also been received from one of the Ward Councillors in Calverley & Farsley to alter the existing polling arrangements for the ward.
3. This report outlines the review process officers recommend should be followed to consider and consult on the representations received

**Recommendations**

3. Members are asked to: –
  - i. Agree the process for the Interim Review for Garforth & Swillington and Calverley & Farsley as set out in this report;
  - ii. Agree the timetable for the Interim Review as set out at Appendix A to this report;

- iii. Agree that the representations received at section 5 and 6 of this report be confirmed as the authority's initial proposals for the interim review of Garforth & Swillington and Calverley & Farsley; and
- iv. Agree that Elections Working Group will be used as a working group to discuss the results of any further representations received in response to any consultation, and provide recommendations for General Purposes Committee's consideration as set out at section 3.2 of this report;

## **1 Purpose of this report**

- 1.1 To consider the representations received to conduct an interim review of the polling arrangements for Garforth & Swillington and Calverley & Farsley.
- 1.2 To agree the process for such a review.

## **2 Background information**

- 2.1 The Council, for a number of years, by virtue of s18 Representation of the People Act 1983, has had a duty to divide the parliamentary constituencies within its area into polling districts<sup>1</sup> and to designate a polling place<sup>2</sup> for each district. The Returning Officer then nominates a polling station<sup>3</sup> within each polling place.
- 2.2 Section 16 of the Electoral Administration Act 2006 introduced a number of changes to the 1983 Act and particularly with regard to the way reviews of polling districts, places and stations must be undertaken. The most important change is that the Council was obliged, by that Act, to conduct a full review in its area within 12 months of the coming into force of the Act, and then complete a further review of each polling district and polling place every four years thereafter.
- 2.3 The 2006 Act came into force on 1 January 2007 and the first review was completed by the Council in November 2007. A further full review was completed in October 2009. It is important to note that the new regime does not prevent changes being made to polling districts at any time before the next full review is due in 2013 (or at any time thereafter).
- 2.4 Officers have now received representations to alter the polling arrangements in Garforth & Swillington and Calverley & Farsley.
- 2.5 The current polling arrangements for Garforth & Swillington were decided by General Purposes Committee at the conclusion of the last full polling district review on 1 October 2009. As the current polling arrangements were agreed by General Purposes Committee as part of the last full polling district review, Legal Services have advised that these representations need to return to General Purposes

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<sup>1</sup> The area created by the division of a constituency, ward or division into smaller parts, within which a polling place can be determined which is convenient to electors

<sup>2</sup> The building or area in which polling stations will be selected by the Returning Officer

<sup>3</sup> The room or building chosen by the Returning Officer where the poll takes place for each election.

Committee for that committee to reconsider its earlier resolution. This will be carried out as an Interim Polling District Review pending the next full review due in 2013.

- 2.6 The current polling arrangements for Calverley & Farsley were unchanged during the last full polling district review on 1 October 2009. However, the Chief Executive has exercised his discretion to refer the matter to General Purposes Committee for a decision in accordance with section 7.5 of this report.

### **3 Main issues**

- 3.1 Guidance for the conduct of a full polling district review has been published by the Electoral Commission<sup>4</sup>. Legal advice is that an Interim Review should follow the process for a full review as far as it is possible. With that in mind, officers recommend the process for an Interim Review is as follows: -

3.1.1 A Proposals Stage - When notice is given of the Interim Review and the authority's initial proposals and advises that representations would be welcome, particularly from those with expertise in access for persons with any type of disability. It also sets out the reference documents which should be made available. The Returning Officer must comment, at this stage, on all existing polling stations used and any new polling stations which would probably be chosen if the new proposals were accepted by the authority. The review by the authority (of districts and places) should be conducted jointly with the Returning Officer's review (of polling stations).

3.1.2 The Consultation Stage - To receive representations and comments on the authority's initial proposals for the polling districts and places affected by the initial proposals. This is in two parts: -

- i. a compulsory submission from the Returning Officer of the parliamentary constituency with regard to the suitability of the designated polling stations; and
- ii. submissions from other persons and bodies which can be referenced to the Returning Officer's proposed polling stations as well as the authority proposals.

3.1.3 Conclusion of Review - When the authority must produce final proposals, taking into consideration the representations made.

3.1.4 The Decision of the Council on the proposals. General Purposes Committee will approve the final proposals.

3.1.5 The Publishing Stage - When the decision and background material is published.

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<sup>4</sup> Electoral Commission's Guidance EC19/2010 - Review of polling districts, places and stations

3.1.6 Right of Appeal - Although the final decision is that of the Authority, there is a right of appeal to the Electoral Commission (see section 4.6 of this report).

3.2 Involvement of Elections Working Group (EWG) – During the last full polling district review, General Purposes Committee asked EWG to act as a dedicated Working Group for the review, 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 was proposed that EWG co-ordinate representations from the political Groups, consider representations made by the public or other stakeholders, and be used as a vessel to discuss any contentious representations submitted. The views of EWG were presented to General Purposes Committee for their consideration before any decision was made regarding the Council's Final Proposals. It is proposed that EWG is used in this manner again for this Interim Review.

3.3 Proposed Timetable for the Interim Review of Garforth & Swillington and Calverley & Farsley – A proposed timetable for the Interim Review is attached at Appendix A.

#### 4 The Selection of Polling Districts and Places

4.1 A reasonable methodology must be demonstrated if a successful appeal (with its consequential reputational damage) is to be avoided. The Guidance stresses the need for all decisions made to have been consulted upon and to be measured and practical: **'The whole process should be as transparent and open as possible to avoid possible conflict.'** The Initial Proposals document set out the considerations taken into account in drawing up the proposals and such an approach reduces the suggestion that decisions may have been politically motivated.

4.2 The primary considerations for every review are a requirement of Electoral law, and are: -

- i. The Council must seek to ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances; and
- ii. The Council must seek to ensure that so far as is reasonable and practicable every polling place is accessible to electors who are disabled.

4.3 There is no scientific formula or set of rules for the division of a constituency into polling districts, nor for the selection of polling places. The choice will often be a balance between a number of competing considerations, for example between the quality (access, facilities, etc) of a building and the distances between the residents and that building, compared to other options for polling places. Judgment needs to be exercised, e.g. when comparing the potential disturbance to voters as against other factors. However, in carrying out the balancing exercise, the approach should be **voter-centred**.

4.4 Officers propose that the same criteria used for the last full polling district review is used again for this interim review.

4.5 The Corporate Governance and Audit Committee, when it considered the matter of the 2008 Review at its meeting on 6 February 2008, considered Legal Counsel opinion on the criteria used during the first review. Counsel's opinion was: -

"It seems to me that all the considerations were perfectly proper to take into account. They all feed into the overriding question whether all electors have such reasonable facilities for voting as are practicable in the circumstances."

4.6 The Committee also considered Counsel's opinion on how, within electoral law and guidance, the disparities between polling districts can be addressed. Counsel's opinion was: -

"...given that one is seeking to ensure that all electors obtain something, there is a powerful indicator that a degree of comparability may be expected. I use the word degree because it is possible to suppose of an area which is (say) part urban and part rural in which comparability might not so readily be achieved.

"The rule is to seek to ensure that all voters have such reasonable facilities for voting as are practicable in the circumstances. This tends to suggest that in an urban area the facilities are likely, broadly, to be comparable. This is because if for one group the facilities are distinctly easier or better than for another group, then one group is likely to have facilities which could be classified as unreasonable. Accordingly, I suggest that comparability can be used as a guide to whether or not there have been provided such reasonable facilities for voting (for all) as are practicable in the circumstances.

"The preceding approach uses comparability to assist in meeting the requirement of the rule. It appears to me legitimate to do so."

4.7 In addition to the two primary considerations laid out in 4.2, further considerations for this review are proposed below based on the Guidance issued by the Electoral Commission, counsel's opinion as outlined above and officer's views. These considerations were used during the last full polling district review in 2009.

- i. Disparities between polling districts to make them more comparable in terms of number of polling places and number of electors per polling place;
- ii. Current levels of satisfaction / dissatisfaction as expressed by or on behalf of electors;
- iii. The cost / elector ratio of providing a polling place, so there is broad comparability between districts;
- iv. The availability of postal votes on demand;
- v. Disturbance to electors which would be caused by alteration of polling places which have been used for a long period of time;
- vi. A polling place should be in its own polling district, unless it is not possible to find a suitable place in the district;

- vii. There should not be major barriers between the voters and their polling place. Major roads, rivers and the like can therefore be considered as starting points for polling district boundaries unless there is good quality, accessible crossing points;
- viii. The polling place should not be difficult to locate and should be close to where most of the electors in the polling district live;
- ix. The topography of the area should be taken into account including availability of public transport for electors having to travel distances to the polling place;
- x. Facilities for polling staff, who will be on duty for at least 16 hours and cannot leave the polling place;
- xi. That each parish should be a separate polling district save in exceptional circumstances;
- xii. If there appears to be a need in all or particular elections (considering, for example, UK Parliamentary elections may have a higher turnout than local government elections) for multiple polling stations in a polling place, it will need to be considered if the polling place can accommodate them; and
- xiii. Capability of the polling place to cope with peaks of electors allocated to it.

4.8 It should be noted that the considerations are not weighted, as proposals need to be voter-centred and the exercise of judgment and the balancing exercise needs to have this at the forefront of consideration. Each proposal/representation will have circumstances peculiar to it and the differing considerations relating to those circumstances must be balanced to allow the outcome to be voter centred.

4.9 General Purposes Committee agreed the above review criteria at their meeting on 20 November 2008. It is proposed to use the same criteria for the purposes of this Interim Review.

## **5 Representations received for Garforth & Swillington**

5.1 During the 2009 Polling District Review, Elmet & Rothwell Conservative Association submitted the following representations: -

### Proposal 15

Merge polling district GSL with polling district GSK to vote at Great and Little Preston Village Hall.

*Note:* The polling station for polling district GSL at this time was a Portable Building adjacent to 29 Glencoe Gardens, Kippax, Leeds LS25 7QY.

## Proposal 17

Merge polling districts GSN & GSO with polling districts GSJ & GSS to vote at Swillington and District Community Centre, Church Lane, Swillington, LS26 8DX.

*Note:* The polling station for polling districts GSN & GSO at this time was Astley Court Community Centre, Primrose Hill Close, Swillington LS26 8XQ.

- 5.2 At the General Purposes Committee on 1 October 2009, the above proposals were considered as part of a list of proposals where support and objection had been received, and no agreement had been reached at EWG.
- 5.3 After consideration, General Purposes Committee resolved to confirm the above as final proposals. The registers were duly amended and the new arrangements put into place from 1 December 2009.
- 5.4 Officers have now received representations from the Clerk to Swillington Parish Council, and ward Councillors who represent Garforth & Swillington, asking that the arrangements be changed back – i.e. to reinstate the Astley Court and Glencoe Gardens polling stations. Copies of these representations are attached as Appendix B.
- 5.5 To revert back to the old arrangements, the council would need to split the polling districts that were merged as part of the last full polling district review, these are: -
  - Split GSJ, creating new polling district GSS (the electors in GSS would vote at Astley Court Community Centre)
  - Split GSK creating new polling district GST (the electors in GST would vote at Glencoe Gardens)
- 5.6 This would also mean that the Great & Little Preston and Swillington Parish Councils would both comprise of 3 whole polling districts instead of the current 2 although this would not alter any of their parish arrangements.
- 5.7 Maps showing the current arrangements for Garforth & Swillington and the effects of the representations now received are attached at Appendices C and D respectively.

## **6 Representation received for Calverley & Farsley**

- 6.1 Officers have received the following representation from one of the Ward Councillors for Calverley & Farsley that the current boundary between polling districts CFB and CFE be amended as follows: -

The properties listed below, currently part of polling district CFE, be moved to polling district CFB:

- 11 – 33 Georgian Square, Rodley, Leeds LS13 1PZ
- 4 – 6 and 23 – 47 Towler Drive, Rodley, Leeds LS13 1PB
- 1 – 12 Normington House, 8 Towler Drive, Rodley, Leeds LS13 1PB

1 – 6 Pickering House, 10 Towler Drive, Rodley, Leeds LS13 1PB  
1 – 6 Towler House, 47 Towler Drive, Rodley, Leeds LS13 1PB

6.2 The change will mean the above properties will be able to vote with the rest of the Georgian Square development, at: -

Portable Building  
Chapel Street  
Rodley  
LS13 1LL

6.3 This is 0.2 miles away, whereas the current polling station 0.8 miles away at: -

Farsley Springbank Junior School  
Wesley Street  
Farsley  
LS28 5LE

6.4 A copy of the representation is included at Appendix B. Maps showing the current arrangements for Calverley & Farsley and the effects of the representation now received are attached at Appendices E and F respectively.

## **7 Corporate Considerations**

### **7.1 Consultation and Engagement**

7.1.1 The proposed consultation arrangements are outlined as follows. These arrangements are the same as used for previous reviews and will follow the timetable set out at Appendix A.

7.1.2 Full details of the new proposals we have received will be included on the website for inspection. In addition to the website notice we will be writing to all affected ward members, Group Leaders and anyone else who made comment on the original proposals as well as making the information available to relevant Parish Clerks and at local public buildings in the area.

7.1.3 As explained previously, the Returning Officer is required to make a submission on the Initial Proposals with regard to the location of polling stations at polling places. The Returning Officer has had the opportunity to consider the representations received and has said: -

“At this stage, the Returning Officer is content with the representations, but reserves the right to revise, and/or to add to his views on the basis of officer inspections or expressions of support or objection received in response to further consultation.”

### **7.2 Equality and Diversity / Cohesion and Integration**

7.2.1 As explained previously, the notice of the review will invite representations from stakeholders and in particular from those with expertise in access for persons with any type of disability. According to law, the authority must seek to ensure that so



far as is reasonable and practicable every polling place is accessible to electors who are disabled. The process outlined in this report meets that requirement.

### **7.3 Council Policies and City Priorities**

- 7.3.1 The process for conducting a review of polling districts, places and stations is set out in legislation and the authority is not due to complete another full review until the end of 2013. However, it is important to note that the new regime does not prevent changes being made to polling districts at any time before the next full review is due.
- 7.3.2 Due to this, the review does not affect the council's budget and policy framework, although ensuring electors have accessible polling stations 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.

### **7.4 Resources and Value for Money**

- 7.4.1 The costs of carrying out the consultation process will be met from within the existing budget for Electoral Services.
- 7.4.2 Staff resources will be available to conduct this interim review in accordance with the timetable outlined at Appendix A. If the consultation timetable is delayed then it is unlikely resources will be available to conduct this interim review until after conclusion of the police and crime commissioner elections in November 2012.
- 7.4.3 For the committee's information, with regard to the representations received for Garforth & Swillington, reinstating the Glencoe Gardens polling station would cost around £1,900 extra per election as this was a portable building. The Astley Court polling station would cost around £450 extra per election.
- 7.4.4 The representation received for Calverley & Farsley will have no effect on the cost of an election as it makes use of existing polling stations.

### **7.5 Legal Implications, Access to Information and Call In**

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

“ ...

- (c) to divide a constituency into polling districts<sup>5</sup>
- (d) to divide electoral divisions into polling districts at local government elections”

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

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<sup>5</sup> The area created by the division of a constituency, ward or division into smaller parts, within which a polling place can be determined which is convenient to electors

“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.”

- 7.5.3 General Purposes Committee can take the decision or alternatively, it can itself choose to refer the decision to Full Council.
- 7.5.4 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.
- 7.5.5 However, the Chief Executive has the usual 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.
- 7.5.6 Therefore a full polling district 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 have the alternative of making recommendations to Full Council.
- 7.5.7 In all full polling district reviews, the Chief Executive has chosen to refer the matter to General Purposes Committee. Advice received from the City Solicitor is that having considered the October 2009 report to General Purposes Committee and those preceding it; and having regard to what is proposed for Garforth & Swillington (which represents a significant departure from the current arrangements and what was approved by General Purposes Committee in 2009); that a report to General Purposes Committee for them to reconsider their original decision in light of the representations now received is the appropriate course of action.
- 7.5.8 Further to this, the Chief Executive has also decided to refer the representation received for Calverley & Farsley to General Purposes Committee for a decision so all representations can be considered alongside each other for consistency.

## **7.6 Risk Management**

- 7.6.1 On conclusion of any review, the Electoral Commission can consider representations that the review process has not been conducted correctly. There are only two grounds on which a representation may state that a local authority has failed to conduct a proper review, namely: -
- the local authority has failed to meet the reasonable requirements of the electors in the constituency; or
  - the local authority has failed to take sufficient account of accessibility to disabled persons of the polling place.
- 7.6.2 If the appeal is upheld, the Commission can, ultimately, make alterations to the polling places.

## **8 Conclusions**

- 8.1 That the arrangements outlined in this paper meet the statutory requirements for a review of the Garforth & Swillington and Calverley & Farsley polling districts, places and stations and minimises the risk of a successful appeal to the Electoral Commission.

## **9 Recommendations**

- 9.1 Members are asked to: –

- 9.1.1 Agree the process for the Interim Review for Garforth & Swillington and Calverley & Farsley as set out in this report;
- 9.1.2 Agree the timetable for the Interim Review as set out at Appendix A to this report;
- 9.1.3 Agree that the proposals received at section 5 and 6 of this report be confirmed as the authority's initial proposals for the interim review of Garforth & Swillington and Calverley & Farsley; and
- 9.1.4 Agree that EWG will be used as a working group to discuss the results of any representations received in response to any consultation, and provide recommendations for General Purposes Committee's consideration as set out at section 3.2 of this report;

## **10 Background documents**

- 10.1 Electoral Commission's Guidance (EC19/2010) on the conduct of a review of polling districts, places and stations
- 10.2 Papers and minutes to meeting of General Purposes Committee on 1 October 2009
- 10.3 Counsel Opinion on criteria to be considered as part of any review
- 10.4 Equality Screening Assessment

## **Appendices**

- A. Timetable for Interim Review
- B. Representations received
- C. Map of current arrangements for Garforth & Swillington
- D. Map of arrangements incorporating representations received for Garforth & Swillington
- E. Map of current arrangements for Calverley & Farsley
- F. Map of arrangements incorporating the representation received for Calverley & Farsley