

Report of the Head of Licensing and Registration

Report to General Purposes Committee

Date: 12 February 2013

Subject: Joint Review of all Polling Districts, Places and Stations and Community Governance Review of all Parish and Town Council Arrangements

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): All	<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. According to legislation, the council must conduct its next full Review of Polling Districts, Places and Stations by the end of 2013.
2. Officers recommend that this review is conducted jointly with a full Community Governance Review of all Parish and Town Council arrangements.
3. Such a Joint Review will allow for efficiencies and consistency when sharing the costs for both reviews and considering any boundary issues for polling districts and parish/town councils.
4. The guidance for both types of review allows for a process and timetable that permits both reviews to be conducted jointly.

Recommendations

5. Members are asked to: –
 - i. Agree the process for the Joint Review of Polling Districts, Places and Stations and Community Governance Review of all Parish and Town Council arrangements as set out in this report;

- ii. Agree the timetable for the Joint Review as set out at Appendix A to this report;
- iii. Agree the Terms of Reference for the Community Governance Review of all Parish and Town Councils as set out in Appendix B to this report; and
- iv. Agree that Elections Working Group will be used as a working group to discuss the results of any representations received in response to both consultation exercises, and provide recommendations for General Purposes Committee's consideration as set out in this report.

1 Purpose of this report

- 1.1 To agree the process and timetable for the joint Review of Polling Districts, Places and Stations and Community Governance Review of all Parish and Town Council arrangements.

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 districts¹ and to designate a polling place² for each district. The Returning Officer then nominates a polling station³ 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. The council's next full review must be completed by the end of 2013.
- 2.4 The Local Government and Public Involvement in Health Act 2007 introduced powers for councils to conduct Community Governance Reviews in all or part of its area to review existing, amend or create new town or parish councils in response to the needs of the community. The legislation allows a council to conduct a review at any time.
- 2.5 Officers recommend that together with the full review of all existing polling districts, places and stations, the council should also carry out a full Community Governance Review of all Parish and Town Councils in its area. It has been

¹ 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

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

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

some time since any of the existing parish and town council arrangements were reviewed and it makes good sense to consider any parish or town council boundary changes alongside the review of polling districts, places and stations so boundaries can remain consistent where possible.

3 Main issues

3.1 Guidance for the conduct of a full polling district review has been published by the Electoral Commission⁴. The Electoral Commission has also published guidance for the conduct of a Community Governance Review⁵, which follows a similar process. Consolidating the two processes, officers recommend the following stages: -

3.1.1 A Preliminary Stage - When notice is given of the Joint Review and advises that representations would be welcome, particularly (with regard to polling stations) 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. This would be the first public consultation period and will last 8 weeks. The council would consider representations received and form Initial Proposals for further consultation.

3.1.2 A Proposals Stage - When the council considers representations received and forms its Initial Proposals. 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 Guidance suggests that the polling district review by the authority (of districts and places) should be conducted jointly with the Returning Officer's review (of polling stations). The Initial Proposals would also include proposals for parish and town council matters for the Community Governance Review.

3.1.3 The Consultation Stage - To receive representations and comments on the authority's Initial Proposals for both the Polling District Review and Community Governance Review. This would be the second consultation period and will last 12 weeks. For the Polling District Review this needs to be 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's Initial Proposals.

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

⁵ The Electoral Commission's Guidance on Community Governance Reviews (April 2008)

- 3.1.4 Conclusion of the Joint Review - When the authority must produce Final Proposals, taking into consideration any further representations made.
- 3.1.5 The Decision of the Council on the proposals. General Purposes Committee will decide the Final Proposals of the Review of Polling Districts, Places and Stations; and will make recommendations to Full Council on the Final Proposals to be adopted for the Community Governance Review.
- 3.1.6 The Publishing Stage - When the decision and background material is published.
- 3.1.7 Right of Appeal - Although the final decision is that of the Authority, there is a right of appeal to the Electoral Commission in respect of the outcome of the polling district review. There is, however, no automatic right of appeal to the outcome of the community governance review (see section 6.6 of this report).

3.2 Involvement of Elections Working Group (EWG) – During past polling district reviews and two recent Community Governance Reviews, General Purposes Committee asked EWG to act as a dedicated Working Group for each 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 representations submitted. The views of EWG were presented to General Purposes Committee for their consideration before any decision was made regarding the Council’s Initial or Final Proposals. It is proposed that EWG is used in this manner again for this Joint Review.

3.3 Proposed Timetable for the Joint Review – A proposed timetable is attached at Appendix A.

4 The Review 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 polling district review is used again for this review: -
- 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.

4.5 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.

4.6 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 review.

5 The Community Governance Review of all Parish and Town Councils

5.1 Officers recommend that the Review of Polling Districts, Places and Stations outlined in section 4.0 of this report be jointly conducted with a full Community Governance Review of all Parish and Town Council Arrangements.

5.2 The Council has the power to undertake a community governance review of the whole or part of its area at any time. The Council could then make recommendations as to new parishes, the aggregation of parishes, or the alteration or abolition of parishes in its area as a consequence of such a review.

5.3 The first stage of a Community Governance 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 B to this 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.

5.4 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 in Appendix A 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. The Council also has the duty to consult and to take into account any representations received,

and the duty to have regard to the need to secure that community governance reflects the identities and interests of the community.

- 5.5 A community governance review includes the review of existing parishes and it must recommend whether parishes should remain the same, or whether they should be abolished or their areas altered, and whether parish councils should continue or not, and must also make recommendations about electoral arrangements. Recommendations about new parishes could also include aggregating or separating parishes or unparished areas. 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. However, where a new parish has 1,000 or more local government electors, the review must recommend that the parish should have a council.

6 Corporate Considerations

6.1 Consultation and Engagement

- 6.1.1 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.
- 6.1.2 The Notice of Review will be published in local press. Full details of how to make a representation will be given in the Notice of Review and on the Council's website. In addition to the website notice we will be writing to all MPs and councillors as well as making the information available to relevant Parish Clerks and at local public buildings in all areas.

6.2 Equality and Diversity / Cohesion and Integration

- 6.2.1 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.
- 6.2.2 Equality and cohesion screening documents have 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. The screening documents are available as a background document to this report.

6.3 Council Policies and City Priorities

- 6.3.1 The process for conducting a review of polling districts, places and stations and a community governance review is set out in legislation. It is a requirement that the authority completes its next full polling district review by the end of 2013. The authority can conduct a full community governance review at any time it chooses,

however officers have recommended that both reviews be carried out at the same time in the interests of efficiency and consistency.

- 6.3.2 The joint review does not affect the council's budget and policy framework, although ensuring electors have accessible polling places or parish and town councils 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.

6.4 Resources and Value for Money

- 6.4.1 There is no separate budget provision for the costs of carrying out any Review of Polling Districts or Community Governance Review. The costs of carrying out the consultation process will be met from within the existing budget for Electoral Services. The joint review is taking place during a fallow year where there are no local or national elections planned.

- 6.4.2 Staff resources will be available to conduct this joint review in accordance with the timetable outlined at Appendix A.

6.5 Legal Implications, Access to Information and Call In

- 6.5.1 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 districts⁶
- (d) to divide electoral divisions into polling districts at local government elections”

and

“ ...

- (k) Functions relating to community governance⁷
 - (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.”

⁶ 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

⁷ 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.

- 6.5.2 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.”
- 6.5.3 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.
- 6.5.4 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.
- 6.5.5 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.
- 6.5.6 The Chief Executive has chosen to refer the need to undertake a Polling District Review and the decision to undertake a full Community Governance Review to General Purposes Committee.
- 6.5.7 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

6.6 Risk Management

- 6.6.1 There are different appeal mechanisms for polling district reviews and community governance reviews.
- 6.6.2 On conclusion of any polling district 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.
- 6.6.3 If the appeal is upheld, the Commission can, ultimately, make alterations to the polling places.
- 6.6.4 There is no right to appeal as such to the outcome of a community governance review, 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.

7 Conclusions

- 7.1 That the arrangements outlined in this paper meet the statutory requirements for a joint Review of Polling Districts, Places and Stations and Community Governance Review of all Parish and Town Council Arrangements.

8 Recommendations

- 8.1 Members are asked to: –

- 8.1.1 Agree the process for the joint Review of Polling Districts, Places and Stations and Community Governance Review of all Parish and Town Council Arrangements as set out in this report;
- 8.1.2 Agree the timetable for the joint Review as set out at Appendix A to this report;
- 8.1.3 Agree the Terms of Reference for the Community Governance Review of all Parish and Town Councils as set out in Appendix B to this report; and
- 8.1.4 Agree that Elections Working Group will be used as a working group to discuss the results of any representations received in response to both consultation exercises, and provide recommendations for General Purposes Committee's consideration as set out in this report.

9 Background documents

- 9.1 The Electoral Commission's Guidance on the conduct of a review of polling districts, places and stations (EC19/2010)
- 9.2 The Electoral Commission's Guidance on Community Governance Reviews (April 2008)
- 9.3 Counsel Opinion on criteria to be considered as part of any polling district review
- 9.4 Equality Screening Assessments

Appendices

- A. Timetable for Joint Review
- B. Terms of Reference for Community Governance Review of all Parish and Town Councils