

Report of the Head of Licensing and Registration

Report to General Purposes Committee

Date: 18th June 2013

Subject: Joint Review of Polling Districts and Community Governance Review of Parish and Town Councils – Initial Proposals Report

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Adel & Wharfedale (Bramhope & Carlton & Pool Parishes only) Burmantofts & Richmond Hill City & Hunslet Gipton & Harehills Guiseley & Rawdon Harewood (Scarcroft Parish Council only) Kirkstall Morley North (Morley Town Council only) Morley South (Morley Town Council only) Otley & Yeadon Rothwell Roundhay Wetherby (Boston Spa, Bramham cum Oglethorpe, Thorp Arch & Walton Parishes only)		
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 A joint review of polling districts and a community governance review of parish and town councils commenced in Leeds on 18 February 2013. A full review timetable can be found at Appendix E.
- 2 The first consultation period ended on 15 April 2013.

- 3 Meetings of the Electoral Working Group were held to discuss the representations made during the first consultation stage. This report details the outcome of those meetings and EWG's recommendations for Initial Proposals.

Recommendations

- 4 Members are asked to:
- a) note that the summary of representations set out in Appendix A have cross-party support (by parties who expressed a view) and resolve whether in each case to confirm or revise as an initial proposal;
 - b) consider the summary of representations set out in Appendix B which have been rejected by all parties, and resolve whether in each case to confirm or revise as an initial proposal;
 - c) consider the representation set out in Appendix C, which has been revised by all parties, and confirm or revise as an initial proposal.
 - d) note that the initial proposals agreed today will be published for further consultation from 24 June to 16 September 2013, and will return to General Purposes Committee in November to agree on the authority's final proposals.

1. Purpose of this report

- 1.1 To consider initial proposals for the joint polling district review and community governance review of parish and town councils.
- 1.2 To agree the initial proposals to be published on 24 June 2013 for the second consultation period of the 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 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 recommended 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 had been 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.
- 2.6 It should be noted that Section 17 of the Electoral Administration Act 2013, which came into force on 31 January 2013 requires the Council to carry out a review of polling districts and polling places as follows:

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.

- (a) during the period of 16 months beginning with 1 October 2013, and
- (b) during the period of 16 months beginning with 1 October of every fifth year after that.

2.7 It is Officers intention to commence a light-touch review on 1 October 2013, bearing in mind a review will have just taken place. This review will not include Parish and Town Council arrangements.

2.8 A report to the above effect will be submitted to GPC in due course.

3. The review process

3.1 Guidance for the conduct of a review has been published by the Electoral Commission. The guidance sets out the review process. The Local Government Boundary Commission has also published guidance on conducting Community Governance Reviews. The processes are very similar and take place in a number of stages which are summarised as follows: -

- a) **A Preliminary Stage** - When notice is given of the review 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. This stage is now completed.
- b) **A Proposal Stage** - When the authority's initial proposals are consulted upon. 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 review by the authority (of districts and places) should be conducted jointly with the Returning Officer's review (of polling stations). This is the next stage of the process.
- c) **The Consultation Stage** - To receive representations and comments on the authority's initial proposals for polling districts and places. This is in two parts i.e. (i) a compulsory submission from the Returning Officer of the parliamentary constituency with regard to the suitability of the designated pooling 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.
- d) **Conclusion of Review** - When the authority must produce final proposals, taking into consideration the representations made.
- e) **The Decision of the Council** on the proposals. General Purposes Committee will approve the final proposals.
- f) **The Publishing Stage** - When the decision and background material is published.

- g) **Right of Appeal** - Although the final decision is that of the Authority, there is a right of appeal to the Electoral Commission.

The 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.

If the appeal is upheld, the Commission can, ultimately, make alterations to the polling places.

- 3.2 General Purposes Committee approved the timetable for the review at their meeting on 12 February 2013. The final review notice is due to be published on 15 November. The corresponding revised register will be published on 17 February 2014 and will be used for the Local Government Elections and European Parliamentary Elections to be held in May 2014. .
- 3.3 The Preliminary Stage is now completed, and this report sets out the results of the public consultation and representations received so that the General Purposes Committee can agree the authority's Initial Proposals for further public consultation during the Proposals Stage.

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: -
- a) The Council must seek to ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances; and
 - b) The Council must seek to ensure that so far as is reasonable and practicable every polling place is accessible to electors who are disabled.
- 4.2 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**.

- 4.3 Officers proposed that the same criteria used for the last polling district review was used again for this review:-
- a) Disparities between polling districts to make them more comparable in terms of number of polling places and number of electors per polling place;
 - b) Current levels of satisfaction / dissatisfaction as expressed by or on behalf of electors;
 - c) The cost / elector ratio of providing a polling place, so there is broad comparability between districts;
 - d) The availability of postal votes on demand;
 - e) Disturbance to electors which would be caused by alteration of polling places which have been used for a long period of time;
 - f) A polling place should be in its own polling district, unless it is not possible to find a suitable place in the district;
 - g) 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;
 - h) The polling place should not be difficult to locate and should be close to where most of the electors in the polling district live;
 - i) 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;
 - j) Facilities for polling staff, who will be on duty for at least 16 hours and cannot leave the polling place;
 - k) That each parish should be a separate polling district save in exceptional circumstances;
 - l) 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
 - m) Capability of the polling place to cope with peaks of electors allocated to it.

- 4.4 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.

5. The Community Governance Review of all Parish and Town Councils

- 5.1 The Council has the power to undertake a community governance review of the whole or part of its area at any time.
- 5.2 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. Terms of reference are attached as Appendix C to this report.
- 5.3 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 3 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. 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.
- 5.4 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. Results of the preliminary stage

- 6.1 14 representations were received for the polling district review and 15 for the community governance review in response to the authority's Notice of Review published on 18 April 2013. The closing date for receipt of representations was 15 April 2013.

- 6.2 EWG considered the criteria at sections 4.0 and 5.0 when reviewing all representations made during the preliminary stage.

The representations can be grouped into:

- a) Representations where all parties that expressed a view agreed (Appendix A);
- b) Representations rejected by all parties (Appendix B)
- c) Representations agreed with revision by all parties (Appendix C)

7. Returning Officers Comments

- 7.1 The Returning Officer is required to make a submission on the initial proposals with regard to the location of polling stations and polling places and has said:-

“At this stage, I am content with the representations, but reserve the right to revise, and/or add to my views on the basis of officer inspections or expressions of support or objection received in response to further consultation during the proposal stage”.

8. Equality and Diversity / Cohesion and Integration

- 8.1 The notice of the review invited 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. We have been careful to ensure the review process meets that requirement.
- 8.2 An equality and cohesion 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. The screening document can be found at Appendix D.

9 Council policies and City Priorities

- 9.1 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. In the interests of efficiency and consistency the community governance review of Parish and Town Councils is being carried out at the same time.
- 9.2 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.

10. Resources and value for money

- 10.1 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.
- 10.2 Staff resources are available to conduct this interim review in accordance with the timetable which is available as a background document to this report.

11. Legal Implications, Access to Information and Call In

- 11.1 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 districts⁴
- (d) to divide electoral divisions into polling districts at local government elections”

and

“ ...

- (k) Functions relating to community governance⁵
 - (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.”

- 11.2 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 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

⁵ 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.

- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 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.
- 11.7 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.

12. Risk Management

- 12.1 There are different appeal mechanisms for polling district reviews and community governance reviews.
- 12.2 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: -
 - a) the local authority has failed to meet the reasonable requirements of the electors in the constituency; or
 - b) the local authority has failed to take sufficient account of accessibility to disabled persons of the polling place.
- 12.3 If the appeal is upheld, the Commission can, ultimately, make alterations to the polling places.
- 12.4 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.

13. Conclusions

- 13.1 That the processes being followed by officers 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.

14. Recommendations

14.1 Members are asked to:

- a) note that the summary of representations set out in Appendix A have cross-party support (by parties who expressed a view) and resolve whether in each case to confirm or revise as an initial proposal;
- b) consider the summary of representations set out in Appendix B which have been rejected by all parties, and resolve whether in each case to confirm or revise as an initial proposal;
- c) consider the representation set out in Appendix C, which has been revised by all parties and confirm or revise as an initial proposal;
- d) note that the initial proposals agreed today will be published for further consultation from 24 June to 16 September 2013 and will return to General Purposes Committee in November to agree on the authority's final proposals.

15. Background documents

- a) Full details for those representations where all parties that expressed a view agreed
- b) Full details for those representations rejected by all parties

16. Appendices

- a) Appendix A - Representations where all parties that expressed a view agreed
- b) Appendix B - Representations rejected by all parties
- c) Appendix C – Representations where all parties have agreed to a revision
- d) Appendix D - Equality Screening Assessment
- e) Appendix E - Joint review timetable