

Report of the Director of Governance
(Portfolio of the Executive Leader)

Hessay Parish Council – Use of Reserve Powers of Principal Council

Summary

1. This report invites Council to consider the appointment of Councillors Anne Hook and Emilie Knight to Hessay Parish Council under powers conferred by S91 of the Local Government Act 1972 in order that the Parish Council becomes quorate and can continue to function.

Recommendations

2. Council is recommended to:
 - a. Make the order attached to appoint Councillors Anne Hook and Emilie Knight;
 - b. Delegate authority to the Director of Governance to submit copies of the order made to the Secretary of State as required by the legislation.

Reason: To bring Hessay Parish Council up to quorum so that it can continue to function.

Background

3. No nominations were received for Hessay Parish Council at the May 2023 Local and Parish Elections.

4. Since May 2023, Notice of Election inviting nominations for Hessay Parish Council has twice been given by the Returning Officer on 17 May 2023 and 29 June 2023 respectively.
5. The first notice resulted in receipt of a nomination for John Savage who was subsequently declared elected.
6. No nominations ensued from the second notice.
7. There are 5 seats on Hessay Parish Council and only 1 is currently filled. Quorum is 3.
8. A principal council has the following reserve powers under S91 of the Local Government Act 1972:

Where there are so many vacancies in the office of parish or community councillor that the parish or community council are unable to act, the district council [or Welsh principal council] may by order appoint persons to fill all or any of the vacancies until other councillors are elected and take up office.

9. Guidance from the Association of Electoral Administrators suggests that a minimum of two election re runs is desirable before reserve powers are used. That guidance has been followed in this case.
10. Once a Parish Council becomes quorate it may utilise its own powers under Section 21(2) of the Representation of the People Act 1985 to co-opt a person or persons to fill any remaining vacancies. For this reason the Section 91 power is entitled "Temporary appointment of members of parish and community councils".

Options

11. To agree to make the order appointing the City Councillors for Rural West Ward to Hessay Parish Council. This option is preferred as it ensures the relevant local knowledge can be brought to bear in the continuing operation of the Parish Council.
12. To agree an order appointing alternative persons. This would ensure the Parish Council can continue to function.

13. To refuse to make any order. This option is not recommended as it effectively leaves Hessay Parish Council paralysed pending a governance review.

Analysis

14. It may be considered that the best way to constitute a Parish Council is in accordance with a democratic process which gives direct effect to the wishes of local residents. It is not however uncommon for small parishes to experience a level of voter apathy. Reserve powers exist to ensure that Parish Councils do not become paralysed through a lack of quoracy. Exercising that function through full council preserves the democratic ethos.

Council Plan and Policy Framework

15. Making temporary appointments to Hessay Parish Council will ensure it can continue to function thereby empowering local communities.

Implications

16. There are no direct resource or equality implications.
17. The proposed order is in accordance with the statutory provisions set out in the Local Government Act 1972.

Risk Management

18. If the Council does not agree to make any temporary appointment order Hessay Parish Council cannot make any decisions.

Contact Details

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Report Approved

Yes

Date 17 July 2023

Specialist Implications Officer(s) None

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers: None

Annexes:

Annex 1 Proposed Appointment Order

Abbreviations used in this report: None