

Improving People's Lives

To: All Members of the Council

Bath and North East Somerset Councillors: Rob Appleyard, Tim Ball, Sarah Bevan, Colin Blackburn, Alison Born, Shelley Bromley, Neil Butters, Vic Clarke, Sue Craig, Paul Crossley, Gerry Curran, Chris Dando, Jess David, Tom Davies, Sally Davis, Douglas Deacon, Winston Duguid, Mark Elliott, Michael Evans, Andrew Furse (Chairman), Kevin Guy, Alan Hale, Liz Hardman, Steve Hedges, Joel Hirst, Lucy Hodge, Duncan Hounsell, Shaun Hughes, Eleanor Jackson, Grant Johnson, Dr Kumar, Matt McCabe, Hal MacFie, Ruth Malloy, Paul May, Sarah Moore, Robin Moss, Paul Myers, Michelle O'Doherty, Lisa O'Brien (Vice-Chair), Bharat Pankhania, June Player, Vic Pritchard, Manda Rigby, Dine Romero, Mark Roper, Richard Samuel, Bruce Shearn, Brian Simmons, Alastair Singleton, Shaun Stephenson-McGall, Karen Walker, Sarah Warren, Karen Warrington, Andy Wait, Chris Watt, Ryan Wills, David Wood and Joanna Wright

Chief Executive and other appropriate officers
Press and Public

Dear Member

Council: Thursday 25th March 2021

Please find attached a **SUPPLEMENTARY AGENDA DESPATCH** of late papers which were not available at the time the agenda was published. Please treat these papers as part of the agenda.

Papers have been included for the following items:

5. **URGENT BUSINESS AGREED BY THE CHAIR - REPORT TO DELEGATE POWER TO MAKE ORDERS UNDER SECTION 91 LOCAL GOVERNMENT ACT 1972 (Pages 3 - 8)**

Yours sincerely

Jo Morrison
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

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Bath & North East Somerset Council		
MEETING	Council	
MEETING	25 March 2021	
TITLE:	REPORT TO DELEGATE POWER TO MAKE ORDERS UNDER SECTION 91 LOCAL GOVERNMENT ACT 1972	
WARD:	All	
AN OPEN PUBLIC ITEM URGENT ITEM OF BUSINESS UNDER 100B 4(b) OF LOCAL GOVERNMENT ACT 1972		
List of attachments to this report: Appendix 1 Order Appendix 2 Process for appointment		

1 THE ISSUE

- 1.1 To consider whether to delegate power to make Orders under section 91 Local Government Act 1972

2 RECOMMENDATION

The Council is asked to;

- 2.1 Delegate authority to the Monitoring Officer, in consultation with the Group Leaders, to make an Order (Appendix 1) to appoint parish councillors to ensure that an inquorate Parish Council is quorate and can continue to act
- 2.2 Adopt the process for appointment at Appendix 2

3 THE REPORT

- 3.1 Section 91 of the Local Government Act 1972 allows the Council to appoint a sufficient number of Parish Councillors on a temporary basis, to enable the work of a Parish Council to continue until it has co-opted or elected sufficient Councillors to be quorate.

- 3.2 At the point that the Parish becomes inquorate, the Parish Council is unable to hold meetings/ make decisions on the business of the Council. In such circumstances the District Council can act under section 91 Local Government Act 1972 (as amended), and appoint individuals to act as Parish Councillors, until or unless the Parish has held an election or in the absence of an election to have co-opted sufficient Councillors on to the Parish Council.
- 3.3 A B&NES parish council has informed the Council that it expects to receive resignations from councillors such that, combined with the current vacancies on the parish council, there would be insufficient councillors to be quorate and the parish council have therefore requested that, in that eventuality, this Council make temporary appointments to the parish council.
- 3.4 This Council was notified of the parish council's potential difficulties on the 18 March 2021, after the publication of the agenda papers for this Council meeting. The use of the Section 91 powers is a non- executive function which is not delegated to officers. Due to the potential for the parish council to be inquorate and unable to co-opt there is a need for an urgent decision to be made.
- 3.5 Accordingly it is recommended that the Council delegate authority as set out under 2.1 to make an Order at Appendix A (with a named appointment) if required.

4 STATUTORY CONSIDERATIONS

- 4.1 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 may by order appoint persons to fill all or any of the vacancies until other councillors are elected and take up office

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 None

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 EQUALITIES

- 7.1 None

8 CLIMATE CHANGE

- 8.1 No implications

9 OTHER OPTIONS CONSIDERED

- 9.1 None

10 CONSULTATION

- 10.1 Group leaders, Chief Executive, S.151 officer

Contact person	Michael Hewitt, Interim Monitoring Officer Michael_Hewitt@bthnes.gov.uk
Background papers	None
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THIS ORDER is made on the day of two thousand and twenty One by

BATH & NORTH EAST SOMERSET COUNCIL (“Council”)

WHEREAS

1. following the resignation of XXXX elected members to XXXXXXXXXX Parish Council, XXXXX councillor(s) is/are required for a quorum.

2. Under section 91 of the Local Government Act 1972 where there are so many vacancies in the office of Parish Councillor that the Parish Council are no longer able to act, the Council may, by order, appoint persons to fill all or any of the vacancies until other councillors are elected to take office.

Now in pursuance of the Power conferred upon it by Section 91 of the Local Government Act 1972 the Council hereby appoints the following persons to act as Parish Councillors of XXXXXXXXXX Parish Council until sufficient vacancies are filled to re-establish a quorum, whereupon any such appointment shall cease.

XXXXXXXXX PARISH COUNCIL

(insert names)

PROCESS FOR MAKING TEMPORARY APPOINTMENTS TO TOWN AND PARISH COUNCILS

Bath & North East Somerset Council shall follow the procedure below in making an Order to appoint persons to Town/Parish Councils in accordance with Section 91 of the Local Government Act 1972.

1. The Town/Parish Clerk shall advise the Monitoring Officer that the Town/ Parish Council is unable to operate due to being inquorate.
2. The Monitoring Officer shall verify the number of seats on the Town/Parish Council and that it is inquorate.
3. The number of appointments required for it to become quorate is identified.
4. The Monitoring Officer shall offer the temporary position of Town/Parish Councillor in the following order. A Councillor may decline the appointment, in which case the offer of appointment will continue in order until a quorum has been achieved.
 - a) B&NES Councillor(s) for the ward in which the Parish/Town is located;
 - b) B&NES Councillor(s) for adjacent wards to which the Parish/Town is located;
 - c) In consultation with Group Leaders, other Councillors will be considered and may include Town/Parish Councillors from adjacent Parishes.
5. All appointments must be made by Order under Section 91(1) of the Local Government Act 1972.
6. In the event that appointments cannot be made a report will be submitted to the next Council meeting for Members to consider the way forward for the Parish/Town Council.

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