

LOCAL GOVERNMENT ACT 1972, SECTION 91 – Inquorate Parish Council

Cabinet Member(s): Councillor Margaret Squires
Responsible Officer: Jill May, Returning Officer

Reason for Report: To seek the Council's authority to make an Order appointing named persons to be Parish Councillors on a temporary basis. This will enable the work of the Parish Council to continue until such time as it has co-opted or elected sufficient Councillors to be quorate. Also to consider whether to delegate authority to the Returning Officer, in consultation with the local Ward Member(s), to make such orders in future, should similar situations arise.

RECOMMENDATION:

1 That the Council agrees to make the Order attached at Appendix A to appoint parish councillors to Burlescombe Parish Council so that the Parish Council is quorate and can continue to act.

2 That delegated authority is given to the Returning Officer, in consultation with district Ward Member(s) for the parish affected and the Parish Clerk, to make orders under Section 91 of the Local Government Act 1972 should a similar situation arise in future in respect of this or another parish, following the procedure set out in Appendix B.

Relationship to Corporate Plan: the Council is enhancing the local community by assisting a parish council to carry out its business effectively

Financial Implications: these appointments would be classed as approved duties for the purposes of members' travel expenses claims. If an election is called to fill the vacancies, the majority of the cost would be reclaimed from the parish council. There are minimal costs involved in drawing up the necessary order which can be met from existing budgets.

Legal Implications: failure to make an order would mean that Burlescombe Parish Council has no councillors and cannot conduct any business.

Risk Assessment: That there is no local representation

Equality Impact Assessment: That there is no representation

1.0 Introduction

1.1 On 4th June 2018 the five remaining parish councillors in Burlescombe Parish Council all resigned. The Parish Council is therefore unable to carry out its normal business.

- 1.2 Section 91 of the Local Government Act 1972 gives district councils the power (not duty) to make a temporary appointment to fill vacancies until sufficient parish/town councillors are elected and take up office.
- 1.3 The quorum for any meeting of Burlescombe Parish Council is three and therefore at least three parish councillors need to be appointed – and all will need to attend all meetings in order to conduct the required business. If no appointment is made, the parish council will remain inquorate until the elections can be held – when it is to be hoped that sufficient minimum number of nominations and therefore elections to the council can be made.
- 1.4 Under the Constitution there are no delegated powers for an officer of Mid Devon District Council to appoint interim Councillors until elections take place. Neither is it within the remit of the Cabinet or another Committee.
- 1.5 Two copies of a Section 91 Order must be sent to the Secretary of State – but there is no requirement that it be confirmed by the Secretary of State.

2.0 **Appointments to Burlescombe Parish Council**

2.1 The district and county councillors within whose wards Burlescombe Parish Council sits are Cllr Christine Collis, Cllr Heather Bainbridge and Cllr Ray Radford respectively. They have all agreed to step in on a temporary basis until elections achieve a quorate parish council.

2.1 A draft order is at **Appendix A**.

3.0 **Delegation and procedure**

3.1 In this instance, the issues with Burlescombe Parish Council have arisen fairly close to a scheduled meeting of the Council. However, in future that may not be the case. It is therefore recommended that delegations be set up to enable the necessary appointments to bring a parish or town council into a quorate state as quickly as possible.

3.2 It is recommended that the delegation be to the Returning Officer, in consultation with the district ward member(s) and the Clerk to the parish/town council. The latter will have particular local knowledge which may be pertinent to any appointments to be made.

3.3 Although a procedure is not strictly necessary, to avoid any doubt or dispute about what should happen and the validity of any appointments made, a suggested procedure has been produced at **Appendix B**.

Contact for more Information: Jill May, Returning Officer

Circulation of the Report: Cabinet Member for the Working Environment and Support Services and the Chairman of the Council

List of Background Papers: Local Government Act 1972, Section 91

**Mid Devon District Council
Local Government Act 1972, Section 91**

Burlescombe Parish Council (Temporary Appointment of Councillors) Order 2018

Whereas

- 1 Following the resignation of all five remaining parish councillors on 4 June 2018, Burlescombe Parish Council is no longer quorate
- 2 Pursuant to section 91 of the Local Government Act 1972, where there are so many vacancies in the office of parish councillor that a parish council is unable to act, Mid Devon District Council as the principal council may be order appoint persons to fill all or any of the vacancies until other councillors are elected and take up office

Now pursuant to its powers in section 91 of the Local Government Act 1972, Mid Devon District Council hereby appoints the following persons to act as parish councillors on Burlescombe Parish Council until a sufficient number of elected parish councillors have taken up office to render the said parish council quorate whereupon such appointments and this Order shall cease to have effect:

- 1 Christine Collis, Ayshmeade House, Sampford Peverell, Tiverton EX16 7EQ
- 2 Heather Bainbridge, Quarry Hockford, Hockworthy TA21 0NL
- 3 Ray Radford, 1 Townsend Gardens, Willand Road, Halberton EX16 7LP

This Order comes into effect on the date given below.

Dated the day of 2018

**THE COMMON SEAL OF
MID DEVON DISTRICT COUNCIL**
was hereunto affixed in the presence of:

A duly authorised officer

Procedure for making temporary appointments to town and parish councils in Mid Devon under section 91 of the Local Government Act 1972

1. The Clerk to a town or parish council notifies Mid Devon District Council that the parish/town council is unable to operate due to being inquorate.
2. Electoral Services (or where appropriate or necessary Member Services) verify the number of seats on the parish/town council and that it is inquorate. They also identify the number of appointments required in order for the parish/town council to be quorate.
3. All district ward members in the ward in which the council is located will be offered the opportunity to be appointed to the council as a temporary appointment until such time as the vacancies are filled by election. Where there are insufficient district ward members available for appointment to achieve a quorum, the relevant county ward member may also be approached. However, it may be necessary to approach other parties, if there are still difficulties in making sufficient appointments (see paragraph 5 below).
4. All appointments will end once sufficient members are elected to the town or parish council or co-opted.
5. In the event that insufficient ward and county members are available and willing to be appointed in order to make up a quorum, the Returning Officer is authorised to appoint any other person, following consultation with the district Ward Member(s) for the parish affected and the Clerk.
6. In the event that no appointments can be made, the parish/town council will remain inquorate until elections are held resulting in sufficient numbers of parish councillors to be quorate.
7. In accordance with Section 91(3) of the Local Government Act 1972, the Returning Officer will send two copies of the order to the Secretary of State. This will also be copied to the Clerk. The order will stipulate the names of the appointed persons and the date their appointment will expire.