

**Manchester City Council
Report for Resolution**

Report to: Constitutional and Nomination Committee – 31 March 2021

Subject: Inquorate Ringway Parish Council – Temporary Appointment of Parish Councillors under Section 91 of the Local Government Act 1972

Report of: City Solicitor

Summary

To notify the Committee of vacancies on Ringway Parish Council and enable the Committee to consider whether temporary appointments of parish councillors should be made.

Recommendations

The Constitutional and Nomination Committee is recommended to:

1. Note that, as a result of failure to attend meetings, all five parish councillor positions on Ringway Parish Council have become vacant in accordance with Section 85 of the Local Government Act 1972.
2. Note that as a result Ringway Parish Council is currently unable to operate and discharge its statutory functions.
3. Note that notice of the parish councillor vacancies was published on 10 March 2021 and there was a 14 working day period from that date during which 10 local government electors for the parish could write to the Chief Executive of Manchester City Council triggering an election to fill the vacancies.
4. Subject to no election having been triggered, make temporary appointments of parish councillors under Section 91 of the Local Government Act 1972, by way of an Order in the form contained in the Appendix to this report, with the persons being appointed being those who were elected at the 2018 ordinary election of parish councillors.
5. Subject to temporary appointments of parish councillors being agreed by the Committee, delegate to the City Solicitor the completion of any formalities relating to the execution of the necessary Order and the submission of two copies of the Order to the Secretary of State.
6. Note that once Ringway Parish Council is operative again, the City Solicitor will explore what advice or support can be offered to the parish council to help ensure that it is able to properly hold regular meetings in future.

Wards Affected: Woodhouse Park

Environmental Impact Assessment - the impact of the issues addressed in this report on achieving the zero-carbon target for the city

Our Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	
A highly skilled city: world class and home grown talent sustaining the city's economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	
A liveable and low carbon city: a destination of choice to live, visit, work	
A connected city: world class infrastructure and connectivity to drive growth	

Financial consequences – Revenue - None.

Financial consequences – Capital – None

Contact Officers:

Name: Fiona Ledden
Position: City Solicitor
Telephone: 0161 234 3087
E-mail: fiona.ledden@manchester.gov.uk

Name: Stephen Hollard
Position: Group Manager, Democratic Services
Telephone: 0161 234 3336
E-mail: stephen.hollard@manchester.gov.uk

Background documents (available for public inspection):

None

1.0 Background

- 1.1 Ringway Parish Council is the sole parish council within the area of Manchester City Council. It is situated within Woodhouse Park Ward and encompasses much of the operational area of Manchester Airport. Although historically there have been periods when Ringway Parish Council has been moribund, it had been active continuously between 2010 and 2019. The reason for its recent inactivity has been the inability of its members to meet due to the COVID-19 pandemic.
- 1.2 The last meeting of Ringway Parish Council was held on 5 December 2019. It has not met since then by way of either a traditional physical meeting or a meeting held remotely in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (“the 2000 Regulations”). It is to be noted that the technical and financial resources of the parish council are limited, which may have impacted on its ability to take advantage of the 2000 Regulations.
- 1.3 Parish councillors have stayed in contact with one another by telephone regarding parish matters. However, these informal contacts did not amount to formal meetings of the parish council, as the requirements of the 2000 Regulations concerning remote meetings were not met.
- 1.4 As all the members of Ringway Parish Council failed to attend a meeting of the parish council for a period of six consecutive months (without their reasons for non-attendance having been approved by the parish council) it follows that by virtue of Section 85 of the Local Government Act 1972 (“the 1972 Act”) all five parish councillors have ceased to be members of the parish council. This means that the parish council is now inquorate and unable to operate and discharge its statutory functions. The relevant excerpts of Section 85 are set out below:

85 *Vacation of office by failure to attend meetings.*

(1) Subject to subsections (2) and (3) below, if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.

(2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.

- 1.5 On 10 March 2021 the Clerk of Ringway Parish Council published notice, under Section 87(2) of the 1972 Act, of the vacancies on the parish council. There followed a 14 working day period, ending on 30 March 2021, during which an election to fill the vacancies could be triggered by 10 local government electors for the parish writing to the Chief Executive of Manchester City Council (as Proper Officer for that purpose) requesting an election to be held. At the time of writing this report no electors had written to the Chief Executive requesting an election. An oral update will be provided to the Committee to inform it whether that position has changed.
- 1.6 In the event that an election is not triggered, it will not be possible for the usual process for filling vacancies in that situation, namely the filling of the vacancies by the parish council by means of co-option, to be taken. This is because, being inquorate, the parish council will be unable to take a decision to co-opt members. Consequently, it would fall to Manchester City Council to resolve the situation by way of its power to make temporary appointments to the parish council.

2.0 Power to make temporary appointments to parish councils

- 2.1 Section 91 of the 1972 Act empowers a district council to make temporary appointments to a parish council within its area where the number of vacancies on the parish council means that the parish council is unable to act. It specifically provides as follows:

91 Temporary appointment of members of parish and community councils.

(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 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.

(2) [Not relevant in this case.]

(3) Two copies of every order made under this section shall be sent to the Secretary of State.

- 2.2 The Council has delegated the Section 91 power to the Committee.
- 2.3 The Committee will be orally updated at the meeting as to whether an election to fill the vacancies has been triggered. In the event that an election has not been triggered, it is recommended that the Committee make temporary appointments by Order under Section 91. A copy of the proposed Order is set out in the Appendix to this report.
- 2.4 It is proposed that the most appropriate appointments to make under Section 91 would be the persons elected (uncontested) as parish councillors on 12 April 2018, who have ceased to be parish councillors as a result of their failure

to attend meetings. They are familiar with the workings of the parish council and their failure to attend meetings has arisen only because of the extraordinary circumstances arising from the COVID-19 pandemic.

- 2.5 It would be open to the Committee to make only three temporary appointments, to meet the bare requirements for a quorate meeting of the parish council, and leave the remaining two vacancies to be filled by the parish council via co-option. However, it is proposed that the filling of all five parish council vacancies by the Committee would build in greater resilience and help ensure that the next meeting of the parish council is quorate.
- 2.6 Any temporary appointments of parish councillors made by the Committee will last until a sufficient number of elected parish councillors have taken up office to establish a quorum on the Parish Council. The next scheduled election of Ringway Parish Councillors is in May 2022.
- 2.7 It is recommended that the Committee delegate to the City Solicitor the completion of any formalities relating to the execution of the necessary Order and the submission of two copies of the Order to the Secretary of State.
- 2.8 Once Ringway Parish Council is operative again, the City Solicitor will explore what advice or support can be offered to the parish council to help ensure that it is able to properly hold regular meetings in future.

3.0 Recommendations

- 3.1 The recommendations appear at the beginning of this report.

Appendix

Section 91 of the Local Government Act 1972 Ringway Parish Council (Temporary Appointment of Councillors) Order 2021

THIS ORDER is made on the day of two thousand and twenty one by the Council of the City of Manchester (“the City Council”).

1. WHEREAS following a failure by parish councillors to attend any meetings of Ringway Parish Council (“the Parish Council”) for a period of six consecutive months (without their reasons for non-attendance having been approved by the Parish Council) they have vacated office in accordance with Section 85 of the Local Government Act 1972 and the Parish Council is no longer quorate.
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 is unable to act, the City Council as the district council for the area may by Order appoint persons to fill all or any of the vacancies until other parish councillors are elected and take up office.

NOW in pursuance of the power conferred upon it by Section 91 of the Local Government Act 1972, the City Council hereby temporarily appoints the following persons to act as parish councillors of the Parish Council until a sufficient number of elected parish councillors have taken up office to establish a quorum on the Parish Council whereupon such temporary appointments and this Order shall cease to have effect:

Lynne Drinkwater
Audrey O’Donovan
Christopher O’Donovan
Jeremy Paul David Oddie
Carolyn Mary Yardley

The abovenamed persons being those who had been declared elected as parish councillors for the Parish Council on 12 April 2018, but who had vacated office as detailed above.

THE COMMON SEAL of
THE COUNCIL OF
THE CITY OF MANCHESTER
was hereunto affixed in pursuance
of an Order of the Council of the said City:

Authorised Signatory