

**UPDATED**



**AGENDA  
COVID-19 INTERIM MEASURES GROUP**

---

**FRIDAY 27 MARCH 2020**

1. **Delegation Arrangements for Returning Officer and Electoral Registration Officer** (Pages 3 - 4)

To consider the report of the Head of Paid Service, (copy enclosed).

2. **Interim Governance Arrangements for Heybridge Parish Council in the Absence of an Election** (Pages 5 - 8)

To consider the report of the Director of Strategy, Performance and Governance, (copy enclosed.)

This page is intentionally left blank



## **REPORT of HEAD OF PAID SERVICE**

---

to  
**COVID-19 INTERIM MEASURES GROUP  
27 MARCH 2020**

### **DELEGATION ARRANGEMENTS FOR RETURNING OFFICER AND ELECTORAL REGISTRATION OFFICER.**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To identify permanent arrangements for Returning Officer and Electoral Registration Officer duties under the scheme of delegation.

#### **2. RECOMMENDATIONS**

- (i) That the Director of Strategy Performance and Governance, be appointed permanently as Returning Officer and Electoral Registration Officer;
- (ii) That pursuant to Section 8 of the Representation of the People Act 1983 the Director of Strategy, Performance and Governance, shall be Electoral Registration Officer for the Maldon District;
- (iii) That pursuant to Section 35 of the Representation of the People Act 1983, the Director of Strategy, Performance and Governance, is Returning Officer for the election of Councillors of the Maldon District and of Councillors of parishes and communities within the Maldon District, and also for the conduct of Parish Polls and Neighbourhood Plan Referendums within the Maldon District;
- (iv) That any Proper Officer designations together with the powers and functions currently delegated to the Director of Resources and proposed to be delegated to the Director of Resources under the existing scheme of delegation, be transferred to the Director of Strategy, Performance and Governance on a permanent basis and the scheme of delegation updated accordingly.
- (v) That this is put into place from 1 April 2020.

#### **3. SUMMARY OF KEY ISSUES**

- 3.1 On 12 September 2019, interim arrangements for the scheme of delegation were made to appoint the Director of Strategy, Performance and Governance to the Electoral Registration Officer and Returning Officer posts.

- 3.2 The Council's resolution of 12 September 2019 was put in place until the post of Director of Resources is filled or otherwise 31 March 2020.
- 3.3 The Director of Resources post has not yet been filled on a permanent basis.
- 3.4 The temporary arrangements that have been put in place to fulfil Electoral Registration Officer and Returning Officer roles the have been successful and included delivery of a General Election.
- 3.5 In mapping the activity across the directorates, officers believe the capacity and capability for this role now sits better in the Director of Strategy, Performance and Governance on a permanent basis.

#### **4. CONCLUSION**

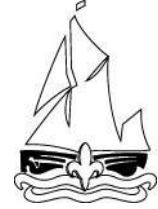
- 4.1 The interim arrangements for Electoral Registration Officer and Returning Officer have been successful sitting with the Director for Strategy, Performance and Governance, and we recommend a permanent change to this delegation.

#### **5. IMPLICATIONS**

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – This approach will limit our risk around election arrangements, as we still have an interim director of resources in post.
- (iv) **Impact on Resources (financial)** – All.
- (v) **Impact on Resources (human)** – All.
- (vi) **Impact on the Environment** – None.
- (vii) **Impact on Strengthening Communities** – None.

Background Papers: None

Enquiries to: Richard Holmes, Head of Paid Service



**REPORT of  
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

---

to  
**COVID-19 INTERIM MEASURES GROUP  
27 MARCH 2020**

**INTERIM GOVERNANCE ARRANGEMENTS FOR HEYBRIDGE PARISH  
COUNCIL IN THE ABSENCE OF AN ELECTION**

**1. PURPOSE OF THE REPORT**

- 1.1 To identify temporary governance arrangements for Heybridge Basin Parish Council (PC).

**2. RECOMMENDATIONS**

- (i) That members review **APPENDIX 1** reviewing the Governance options and background information and risks presented;
- (ii) That Members resolve to extend the current temporary arrangement that the Clerk of Heybridge Parish Council administrates queries and problems;
- (iii) That once government advice permits to hold public meetings again or legislation allows for virtual meetings or to hold elections, Maldon District Council will review the arrangements to decide whether it should exercise its powers under s 91 of the Local Government Act 1972 or hold an election.

**3. SUMMARY OF KEY ISSUES**

- 3.1 Due to COVID-19 and the risk to society, we have followed government advice and formally suspended all polls so Heybridge Basin PC election will not be running in May. At the moment, we can only work on the basis of the election happening in line with Police and Crime Commissioner (which will be a year delay).
- 3.2 The reorganisation order, finalised and sealed in October 2019 means that Heybridge Basin Parish Council will come into existence on 1 April 2020. Elected members were due to take office to administrate this from May 2020.
- 3.3 Committee meetings and associated meetings of Maldon District Council have been suspended and Maldon District Council offices have removed all but essential staff and moved to interim measures in the light of COVID-19 government advice.
- 3.4 The law does not currently allow provision for Decision making by virtual meetings though this may be permitted later depending on when legislation is passed.

## 4. CONCLUSION

4.1 APPENDIX 1 highlights three options, which are:

1. Request that the Clerk of Heybridge Parish Council temporarily administers Heybridge Basin Parish but as there will be no members acting no decisions could be made other than answering queries and providing information.
2. Temporarily appoint people to act as members for Heybridge Basin Parish Council under s91 of the Local Government Act 1972 and establish a constitution and appoint a Clerk. It would be hoped that those members would then resolve to give interim measures to the Clerk
3. Delay the start date of the reorganisation order until April 2021.

4.2 In view of the risks and challenges associated with each of these, we recommend a temporary continuation of the current arrangement until the emergency COVID-19 measures that Maldon District Council is operating under have been relaxed.

## 5. IMPACT ON STRATEGIC THEMES

5.1 None.

## 6. IMPLICATIONS

- (i) **Impact on Customers** – None.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – All options carry a risk, but the approach recommended is most aligned to the current emergency environment.
- (iv) **Impact on Resources (financial)** – None.
- (v) **Impact on Resources (human)** – None.
- (vi) **Impact on the Environment** – None.
- (vii) **Impact on Strengthening Communities** – None.

Background Papers: APPENDIX 1 - Heybridge Basin Parish Council Governance.

Enquiries to: Paul Dodson, Director of Strategy, Performance and Governance.

## Heybridge Basin Parish Council Governance Options

### **Elections context**

We have formally suspended the all polls so Heybridge PC election will not be running in May

At the moment, we can only work on the basis of the election happening in line with PCC (at the moment this has a year halt)

In summary, sections 57 to 66 of the Coronavirus Bill provide that:

- The polls scheduled for 7 May 2020 are to be postponed until 6 May 2021
- Any unscheduled polls, e.g. casual vacancies and NPRs, where the date of poll falls in the period from the date the Act receives Royal Assent through to 6 May 2021 are also to be postponed
- The Secretary of State is to make regulations that will clarify when polls for such vacancies and referendums should take place
- The regulations will also deal with any polls that may have been postponed by ROs and COs before the Act received Royal Assent
- Those regulations will be made as soon as possible after Royal Assent

The reorganisation order means that Heybridge Basin Parish Council will come into existence on 1<sup>st</sup> April 2020, and elected members were due to take office to administrate this from May 2020.

### **Option 1- Current arrangement-**

A temporary situation was going to be arranged, whereby Heybridge Parish Council would continue to maintain the area until Heybridge Basin Councillors are elected and up and running, and would recharge for any costs incurred.

This means the Clerk would do administration and keep things ticking over eg a pothole in the carpark, responding to queries.

RISK- Current arrangements mean non-elected members would have to solve issues and charge it back retrospectively once councillors are appointed, but potentially new members could refuse to pay and authorise costs and decisions retrospectively.

We have been receiving contact from the referendum group that they would not be happy with this arrangement.

### **Option 2- Establish alternative governance arrangements**

Section 91 local govt act allows MDC to appoint people to fill the vacancies. The appointments could be made using the interim measures. Options for those who could be appointed:

- The 3 Heybridge Ward Members of the District Council;
- 3 Heybridge Parish Councillors – the referendum group have emailed that they aren't satisfied with this approach;

- 3 Referendum Group members– Group members have been drafting constitution and working with officers ahead of the election;

Minimum 3 provide for a quorum- Other members could be appointed after coronavirus and until elections can be called

It is anticipated that those 3 individuals would meet to appoint a Clerk and then hopefully resolve to delegate interim measures powers to the Clerk in consultation with one of those members.

RISK: meetings being held during COVID-19 response are a diversion of emergency planning resource, and an ultimate risk to life. Anyone considered a high-risk group would also not be able to come forwards for the meeting due to isolation guidance.

### **Option 3- Possibility to extend reorganisation order**

There is provision in the action to postpone the date that Heybridge Basin comes into being to April 2021.

However, we have already billed the new precept – The Interim director of Resources could look into rolling this back and but then we would have to rebill households in Heybridge and Heybridge Basin, adding additional resource pressure to the revenues and benefits team.

RISK: The Revenues and Benefits team area already under an additional resource burden due to the COVID-19 government response measures, and the new policies they will need to implement.

It would be unlawful to collect council tax on a precept for a parish council that doesn't exist and then refund people afterwards, so the billing would have to be dealt before we extended the order.

### **Proposal:**

Keep current arrangements – informal arrangement with the clerk of Heybridge Parish Council to administrate queries and problems

Major problems to be referred to Maldon District Council, to support and protect Heybridge Parish Council.

Once we can hold meetings again/ legislation allows for virtual meetings, then we can use section 91 to appoint in the absence of an election OR at this time we can arrange to hold an election if possible

**NB-** this option would acknowledge a risk of possible legal challenge, but is the one that we feel sits better with current capacity and emergency planning environment we are in.