
CREATION OF A PARISH COUNCIL FOR RAMSGATE

To: **Council – 9 October 2008**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: Eastcliff, Central Harbour, Cliffsend and Pegwell, Nethercourt, Newington, Northwood, Sir Moses Montefiore

Summary: **Reports on recent developments and seeks formal approval for an order establishing a parish council for Ramsgate under the Local Government and Public Involvement in Health Act 2007.**

For Decision

1.0 Introduction and Background

- 1.1 An extraordinary meeting of Council on 23 November 2006 agreed the following:
- (i) The petition for a parish council for the non-parished areas of Ramsgate be referred to the Secretary of State together with this Council's support for the proposal.
 - (ii) The Chief Executive be authorised to settle the final form and details of the Council's submission to the Secretary of State consistent with this report and the decision of the Council.
 - (iii) The Council supports the title of "Parish or Town Council of Ramsgate" as the most inclusive name for the new Council."
- 1.2 This report updates Council on events that have taken place since then, and proposes a way forward for establishing the new Council.
- 1.3 The original submission to the Secretary of State was made principally under powers conferred in the Local Government and Rating Act 1997 (see section 2 of this report). The Local Government & Public Involvement in Health Act 2007 established a new regime for undertaking "community governance reviews" and provisions for devolving the establishment of new parish councils to principal councils (see section 3). During the summer, the Department for Communities and Local Government devolved the powers to create a parish for Ramsgate to the Council under that legislation. Counsel's advice has been sought regarding the way in which the powers in the 2007 Act should be exercised (see section 4). This report then goes on to suggest a programme for creating the parish council (see section 5).

2.0 The Submission to the Secretary of State

- 2.1 A number of reports have been presented to Council regarding the suggestion that a parish council be established for Ramsgate. On 8 September 2005 the following motion was agreed:

“Council agrees to establish an Electoral Matters Working Party (ratio 5:3) to conduct a review of the Parish Electoral arrangements under the Local Government and Rating Act 1997 to cover the unparished areas of Ramsgate and that the Working Party shall report their findings and recommendations to a future meeting of Council for decision”.

2.2 On 23 February 2006 the Electoral Matters Working Party reported its findings to Council, which included a detailed examination of options for the creation of a parish council and consideration of responses to a public consultation exercise. Council did not support the creation of a parish council for a number of reasons set out in that report.

2.3 On 21 September 2006 Council received a petition requesting the creation of a parish council for Ramsgate. Because the Council had previously not felt the argument in favour of a parish council to be compelling, it agreed another option available under the Local Government and Rating Act 1997:

“Authority be granted to the Returning Officer to conduct a Referendum of all registered electors for the unparished area of Ramsgate to ascertain the views of the electorate. The Electoral scheme contained in paragraph 4 of the report be approved for consultation purposes. A Member Working Party based on a ratio of 2:2 be established to work with Officers in the conduct of the referendum and the costs of conducting the Referendum, estimated to be £38,000 be met from Council contingencies.”

2.4 The electoral scheme referred to was as follows:

Proposed Parish Ward	Electorate on 1 Sept 2006	Seats	Ratio (of electors to seats)
Central Harbour	5,783	3	1,927
Pegwell	2,289	1	2,289
Eastcliff	5,307	3	1,769
Nethercourt	3,371	2	1,685
Newington	3,479	2	1,739
Northwood	4,918	3	1,639
Sir Moses Montefiore	3,719	2	1,859
Overall	28,866	16	1,804

2.5 On 23 November 2006 an extraordinary meeting of Council considered the results of the referendum. A total of 11,753 votes were cast out of a total of 28,912 potential votes, with the result as follows: 59.5% not returned, 23.9% in favour and 16.7% against.

2.6 Council adopted the following motion:

- “(i) The petition for a Parish Council for the non-parished areas of Ramsgate be referred to the Secretary of State together with the Council’s support for the proposal.
- (ii) The Chief Executive be authorised to settle the final form and details of the Council’s submission to the Secretary of State consistent with this report and the decision of the Council.

- (iii) The Council supports the title of “Parish or Town Council of Ramsgate” as the most inclusive name for the new Council.”
- 2.7 The timetable indicated within the report suggested that if the submission were made to the Secretary of State by December 2006, the Department for Communities and Local Government would be able to approve the electoral arrangements and pass the necessary legislation to enable the creation of the parish from 1 April 2008.
- 2.8 The submission was made to the Secretary of State on 30 November 2006. That submission is currently being loaded onto a page on the Council’s web site for ease of reference. That web page will be updated as progress continues towards the establishment of the Council.
- 2.9 The Boundary Committee for England sought further information in order for the Commission to consider the Council’s proposal. The Council replied on 8 February 2008. The information requested was as follows:
- (i) Electoral arrangements for the proposed parish, i.e.
 - Number of councillors for the parish
 - Number, names and boundaries of parish wards
 - Number of councillors in each parish ward
 - (ii) Electorate figures for the proposed parish and 5-year projected electorate figures for the proposed parish and any parish wards, if there were any
 - (iii) Evidence of consultation on the proposals and the electoral arrangements for all residents concerned, the county council and the surrounding parish councils.
 - (iv) Confirmation of the proposed parish and parish wards and mapping, at a scale of 1:10,000 or higher on the proposals.

3.0 The Local Government Act 2007

- 3.1 The Local Government and Public Involvement in Health Act 2007 received Royal Assent on 30 October 2007.
- 3.2 Part 4 of the Act governs parish councils and created new powers for Principal Councils (which includes Thanet District Council) to undertake “community governance reviews”. The provisions of Part 4 of the Act became effective on 13 February 2008. The Electoral Commission published guidance on conducting community governance reviews in April 2008.
- 3.3 A community governance review can be undertaken by a Principal Council for a number of purposes including the creation of a new parish, the review of existing parishes and grouping or de-grouping of parishes.
- 3.4 If a community governance review recommends the creation of a parish, it must make recommendations on:
- (i) the name of the new parish
 - (ii) whether or not a new parish should have a parish council
 - (iii) whether or not the new parish should have one of the new “alternative styles”.
- 3.5 If the Council undertakes a community governance review in compliance with the 2007 Act, it no longer needs to refer the outcome as a recommendation to the Secretary of

State. If the review recommends the creation of a parish, the Council would be able to give effect to the recommendations made in the review “by order”. This is, in effect, devolution of the power to implement the recommendations from parish reviews from the Department for Communities and Local Government to the Council.

- 3.6 Clearly the processes under the 1997 and 2007 Acts are fundamentally different. Under the 1997 Act it was the Department for Communities and Local Government that created the parish by order and the Electoral Commission that made consequent changes to electoral boundaries. Under the 2007 Act the Council becomes responsible for these processes.

4.0 Devolution of Responsibility to Thanet District Council

- 4.1 By early 2008 the Council had not received permission from the Department for Communities and Local Government to create a parish for Ramsgate under the 1997 Act. The Chief Executive wrote to the Secretary of State seeking clarification of the way forward. The Department for Communities and Local Government wrote to the Council on 8 February stating that the Secretary of State was seeking to devolve to local authorities at the earliest possible opportunity the taking of decisions about the implementation of petitions. However, that letter did not actually transfer the power.

- 4.2 Following further correspondence, on 12 May 2008 the Secretary of State wrote to the Council formally transferring the petition to the District Council for consideration and decision under the new provisions. However, the letter referred to guidance issued by the Electoral Commission on the undertaking of community governance reviews, and it was at that stage unclear to the Council whether that reference meant it would be necessary for the Council to undertake a full community governance review as defined within the 2007 Act.

- 4.3 Officers attempted to clarify whether transitional provisions within the 2007 Act would allow the Council to regard the petition as, in effect, a community governance review. It was clearly important to the local community that the process to create a parish council for Ramsgate is undertaken lawfully and could not be open to legal challenge. Accordingly, a decision was taken by the Chief Executive to obtain Counsel’s advice as to how the devolution from the Secretary of State could be acted upon.

- 4.4 That advice was received at a conference in Chambers on 12 August 2008 and then in writing on 22 August 2008. It confirmed that the Council could regard the petition as if it were a community governance review, and proceed directly to the making of a community governance order. At virtually the same time, the Department for Communities and Local Government published a model community governance order that Councils could consider when preparing their own order under the 2007 Act.

- 4.5 One implication of the above is that the name and style of the new parish must be that of a “Parish Council”. The petition process under the 1997 Act is taken to be a “community governance review”. That process recommended the name of parish or town council, so it must be established as a parish council.

5.0 Creating the new Parish Council

- 5.1 The result of the above is that in August 2008 it became clear that the Council would need to establish the parish council in Ramsgate itself, without reference to the Secretary of State, under the 2007 Act. To underline this point, it is worth noting that had the Secretary of State progressed the application this Council had made under the 1997 Act, the Department for Communities and Local Government would have prepared the necessary governance orders, and this Council would merely have conducted the election in accordance with the proposed and agreed scheme. Under the 2007 Act it is

now the responsibility of this Council to prepare the commencement orders and finalise other matters relating to the winding up of the existing Charter Trustees, and so on.

- 5.2 Subject to Council approval the Order can now be drafted and made. However, under the relevant statutory provisions the earliest date on which it can be effective is 1 April 2009. For legal and practical reasons the election and poll (if required) would be likely to be in September 2009 with the precise dates being settled by the Returning Officer.

6.0 Corporate Implications

6.1 Financial

- 6.1.1 The costs of running the initial election to a parish Council in Ramsgate are already provided for in the Council's budget.

6.2 Legal

- 6.2.1 Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007 came into force on 13 February 2008 and has devolved decisions on the creation of new parish councils to principal councils.
- 6.2.2 Transitional regulations are in place with respect to petitions submitted to central government under the Local Government and Rating Act 1997, where decisions on those petitions were still outstanding on 13 February 2008.
- 6.2.3 By virtue of the provisions of the transitional regulations, the submission made by the Council to central government on 30 November 2006 under the 1997 Act is deemed to constitute recommendations made in a community governance review for the purposes of section 87 of the 2007 Act. As from 9 May 2008, the decision on whether to give effect to the recommendations has rested with the Council.
- 6.2.4 The Council can give effect to the recommendations made in the community governance review by making a reorganisation order.
- 6.2.5 If the Council decides to make a reorganisation order, the order will provide for the establishment of the new parish council, for the transfer of property rights and liabilities and for the dissolution of the Ramsgate Charter Trustees (which will occur on the date on which the first parish councillors for the new parish come into office). Any officers appointed by the Ramsgate Charter Trustees prior to their dissolution will be transferred to the new parish council.

6.3 Corporate

- 6.3.1 This report supports the Council's objectives to conduct elections efficiently and increase participation in democratic processes.

6.4 Equity and Equalities

- 6.4.1 There are no equity or equalities implications arising directly from this report. Electoral arrangements were reviewed as part of the review of polling districts and places undertaken during 2007 and reported to Council at that time. That review considered accessibility issues in terms of the location of and access into polling places and polling stations.

7.0 Recommendation(s)

7.1 In exercise of powers delegated by the Secretary of State, the Council approve the making of an order, effective on 1 April 2009, under S.86 of the Local Government and Public Involvement Act 2007, to constitute a new parish and parish council for Ramsgate.

7.2 The Chief Executive be authorised to settle the wording and content of the draft order.

8.0 Decision Making Process

8.1 This is a decision that must be taken by Council.

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Reporting to:	Richard Samuel, Chief Executive

Background Papers

Title	Details of where to access copy
Local Government & Public Involvement in Health Act 2007	www.statutelaw.gov.uk
Guidance on Community Governance Reviews, Electoral Commission	http://www.electoralcommission.org.uk/boundary-reviews/parish-reviews
Counsel's Opinion, 22 August 2008, Estelle Dehon	Interim Legal and Democratic Services Manager

Corporate Consultation Undertaken

Finance	Sarah Martin, Financial Services Manager Matthew Sanham, Finance Manager (Service Support)
Legal	Peter Reilly, Acting Legal Services Manager