

Report for: ACTION/INFORMATION
Item Number: 4

<b>Contains Confidential or Exempt Information</b>	NO
<b>Title</b>	Increasing democracy by encouraging parish council elections
<b>Responsible Officer(s)</b>	Andrew Elkington, Head of Policy and Performance
<b>Contact officer, job title and phone number</b>	Andrew Green, Community Partnerships Co-ordinator 01628 682940
<b>Member reporting</b>	Cllr. Christine Bateson
<b>For Consideration By</b>	Big Society Panel
<b>Date to be Considered</b>	17 <sup>th</sup> September 2013
<b>Implementation Date if Not Called In</b>	asap
<b>Affected Wards</b>	All wards with a town or parish council
<b>Keywords/Index</b>	Big Society, Town and Parish Councils, Elections

### Report Summary

- This report outlines the legal requirements relating to parish elections, looks at barriers to parishes holding elections as opposed to co-opting new members and recommends actions for promoting town and parish elections and encouraging local democracy. It looks specifically at how more young people could be encouraged to participate on town and parish councils.
- It recommends that members should endorse the 'action plan for increasing local democracy' at Appendix A which includes proposals to: increase publicity and promotion around parish elections, support parishes with the cost of elections, encourage more candidates (particularly young people) to come forward for election and take the necessary measures to trigger local elections wherever appropriate.
- These recommendations are being made to support the Council's commitment to the Big Society.
- If adopted, the key financial implications for the Council will be dependent on the extent to which the Council is prepared to support the cost of parish elections.
- The options range through: supporting parishes with the full administrative cost of a contested election (£2,000-£4,000 per election depending on whether it is shared with another election or not), agreeing not to recharge parishes for particular elements of the cost (e.g. polling cards or the cost of premises) or meeting the publicity cost of publicising vacancies and

elections.

**If recommendations are adopted, how will residents benefit?**

Benefits to residents and reasons why they will benefit	Dates by which they can expect to notice a difference
Effective local democracy will benefit residents by making sure that, wherever possible, decisions about things that matter to people are made as close as possible to the people that they affect.	May 2015 – next full scale parish elections

**1. Details of Recommendations**

1. That members consider and, subject to member comments, endorse the 'action plan for encouraging democracy on town and parish councils' at Appendix A.
2. That members consider and comment on proposals for supporting town and parish councils with the cost of elections.
3. That members consider and comment on proposals for encouraging new candidates (particularly young people) to put themselves forward for election.
4. That members consider and comment on measures to promote and encourage town and parish elections and the circumstances in which the Royal Borough can itself trigger a local election.

**2. Reason for Decision and Options Considered**

Options	Comments
The Council does not take any action to encourage town and parish level democracy.	Parish Councils are a basic building block of local democracy. If they are not working effectively and engaging with local residents the Council's aim of promoting the Big Society will be undermined.
The Council supports town and parish councils with the cost of local elections.  <b>This is a recommended option.</b>	Parish elections are administered by the Returning Officer with the support of the Borough Council. The Council could reduce or waive some of these costs or devolve elements of the process to parish councils.
The Council supports parish councils in identifying suitable candidates (particularly young people) and encouraging them to come forward for nomination.  <b>This is a recommended option</b>	It will only be possible to hold contested elections if there are a sufficient number of suitably qualified candidates coming forward.
Maximise publicity surrounding critical points in the process:	Raising awareness of the local democratic process will encourage

<ul style="list-style-type: none"> <li>- Securing nominations for four yearly elections</li> <li>- Encouraging residents to register their vote</li> <li>- Securing ten signatures to trigger an election in the event of a casual vacancy</li> <li>- Making sure vacancies are widely and effectively publicised e.g. on RBWM &amp; parish web sites.</li> </ul> <p><b>This is a recommended option</b></p>	<p>more people to participate. It will only be possible to have more elections if a sufficient number of candidates come forward.</p>
<p>Where appropriate the Council uses its powers of intervention to trigger local elections.</p> <p><b>This is a recommended option if or when the circumstances warrant it</b></p>	<p>The Council can trigger an election where the parish has failed to fill all of its vacancies within 35 days of a four yearly election or following a community governance review which could establish newly constituted parishes and necessitate a new election.</p>

2.1 There are three basic barriers to contested Parish Council elections:

- The cost to the Parish of local elections which can act as a disincentive
- Insufficient suitable candidates coming forward
- Lack of public interest or awareness concerning the vacancy process and the power to trigger elections.

2.2 It costs more for a Parish to hold an election, particularly a stand alone election, than it does to co-opt a new member on to the Council. As a consequence there is an incentive for parishes to co-opt new members or ensure elections are uncontested rather than to hold an election or carry a vacancy.

2.3 There are measures the Borough Council can take to trigger and/or encourage elections but these will only be effective if there are a sufficient number of candidates who are willing to stand.

At the last borough wide parish elections in May 2011 there were just 4 contested elections for the 27 parish electoral areas with 12 seats remaining vacant at the close of nominations. A majority of the 164 seats were filled through uncontested elections.

There have been 21 casual vacancies since May 2011 but only two elections have been called in this period:

- o One candidate was elected unopposed in 2012/13
- o There will be an election 3<sup>rd</sup> October 2013 in Bray

2.4 The arrangement for triggering an election in the event of a casual vacancy is not well known. Unless it is well promoted and the ten residents required to request an election following notice of a vacancy are encouraged to come forward local elections will not take place.

- 2.5 If parishes fail to engage residents and promote local democracy the Council may need a final sanction. A community governance review looking at the appropriateness of current parish boundaries may be the appropriate response. The number of parish councillors could also be reviewed and reduced if it is felt that would be a way forward.
- 2.6 If local councils are to have an effective mandate it is important that as many local people as possible are engaged in parish elections. This will require an effective communications and marketing plan.
- 2.7 Actions for increasing local democracy and encouraging more young people to participate need to be effectively planned and resourced.

### 3. Key Implications

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be deliver by
No. of electoral areas for which contested elections are held in the May 2015 Borough wide election.	Less than 8 out of 27 electoral areas are contested.	At least 8 electoral areas 8/27 are contested.	At least 10/27 electoral areas are contested.	At least 15/27 electoral areas are contested.	May 2015.
The number of potential candidates willing to be nominated (the Council to maintain a register).	Fewer than 60 potential candidates on register (4 per parish).	60 potential candidates on register.	65 potential candidates on register.	70 potential candidates on register	May 2015.

### 4. Financial Details

#### Cost of elections

- 4.1 The Returning Officer manages the local council election process and can fully re-charge all reasonable costs incurred to the Parish Councils. Parish Councils have to fund these costs out of their precept or any contingency funds that they may have built up.
- 4.2 The cost of parish elections depend on whether they are stand alone or combined with another election. Parish elections that are combined with another election are charged for a portion of the following costs (which are non-exhaustive) and in full for any items that are specific to them:

Portion of:

- Cost for hire/use of the polling station
- Returning officer fees

- Fees for polling station staff
- Fees for verification and count staff
- Fees for staff involved with the issue and opening of postal votes
- Cost of providing stationary and notices for the polling station
- Cost of the poll cards (if combined)
- Cost for the printing of postal voting packs if combined
- Postage for poll cards and postal voting packs
- Administration/ clerical costs.

Full cost of:

- Nomination packs
- Ballot papers
- Postal voting packs – if it was not possible to combine them with another election held on the same day
- Poll cards - if it was not possible to combine them with another election held on the same day
- Printing costs of the registers.

4.3 In the event of a by elections (that does not coincide with another election) parishes are recharged at full cost for all of the above items.

4.4 The cost involved will differ depending whether the parish election is stand alone or combined with other elections on the same day. Section 36 (3b) of the representation of the People Act says: “Where the polls at any elections are combined ... the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.” There is scope for interpretation here and the Council may have some discretion for reducing or waiving some costs that currently fall on Parish Councils.

4.5 Some councils apportion and share things like staffing and polling stations but charge separately for ballot papers and election notices. Some councils charge parishes 50% of the cost of shared elections whilst other councils waive the recharge for shared elections altogether<sup>1</sup>.

4.6 The estimated cost of individual parish elections (based on 2011 figures) is:

Uncontested election combined with another election.	£200
Uncontested by-election (with only enough nominations for the number of vacant seats).	£100
Contested election combined with another	£2,500

<sup>1</sup> Cost of local (town and parish elections) – National Association of Local Councils, January 2011 [www.nalc.gov.uk](http://www.nalc.gov.uk)

election.	
Parish election that is contested and goes right through to polling day.	£3,000-£4,000 depending on size of electorate, cost of polling stations and number of postal votes.

The Council may wish to support parishes with some or all of the costs of local elections.

There are 27 electoral areas in the borough at parish level, with some parishes split into wards; so there will potentially be 27 elections at a unit cost for shared elections (i.e. on the same day as the Borough Poll) of £2,500.

There are approximately 10 casual vacancies per annum, most of which are currently left vacant or filled by co-option. The cost of a stand alone election is £3,000-£4,000 depending on the size of the parish and the number of postal voters.

## 5. Legal

Shared Legal Services (SLS) have commented on the report as follows:

### 5.1 Can the Council trigger local elections if a parish does not fill all of its vacancies within 35 days of the date of the most recent normal election day?

Yes. This is an accurate reading of s.21 of the [Representation of the People Act 1985](#) and s.39 of the [Representation of the People Act 1983](#).

Specifically, the 1983 Act confers the ability on a district, county or borough council (as set out in the 1985 Act), where there have been insufficient nominations, for the council to either:

*(i) [...] do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and*

*(ii) [...] if it appears to them necessary, direct the holding of an election or meeting and fix the date for it.*

### 5.2 Can the Council waive recharges to town/parish councils, and bear the cost of parish elections itself?

As set out in s.36 of the [Representation of the People Act 1983](#), any expenses reasonably incurred by the returning officer shall be paid by the principal council; and if the council so require, this expenditure shall be repaid to them by the town/parish council.

This is not a mandatory power. It is down to the individual principal council to make a decision as to whether or not to exercise this power. If a council wishes to, they can fully re-charge all reasonable costs incurred to the town/parish. Alternatively, a council can reduce or waive that charge as they see appropriate.

### **5.3 Is there any reason that the Council cannot promote local elections and actively encourage suitable candidates to come forward?**

There is no specific provision barring a principal authority from promoting local elections—this falls within the power to promote or improve economic, social or environmental well-being set out in the [Local Government Act 2000](#), and/or the general power of competence set out in the [Localism Act 2011](#).

One particular aspect is the proposed focus on encouraging young people to engage with this process, and put themselves forward for election. It is important that any report proposal supporting such a course of action has particular regard to the age discrimination provisions of the [Equality Act 2010](#).

In brief, positive discrimination can be considered acceptable under the provisions of [s.158 of the Act](#). The Council needs to demonstrate that participation in an activity by the persons who share the protected characteristic (age) is disproportionately low, and that the action being taken is a proportionate means of achieving the aim of enabling or encouraging persons who share this characteristic to participate. I would advise that it would be helpful to have this built into the early stages of consideration, for the avoidance of doubt.

### **5.4 Can the Council use a Community Governance Review, as indicated, to trigger local elections?**

Undertaking a community governance review will not necessarily have the effect of triggering an election, and this varies based on the circumstances.

The [Local Government and Public Involvement in Health Act 2007](#) enables a principal council to make recommendations through the community governance review process. In most cases, these changes would be significant enough to alter the makeup of one or more parishes.

The [Government guidance](#) on this topic sets out that an authority can conduct a review at any time, but that any order should take effect on the 1<sup>st</sup> of April following the date on which the order was made. The Government's intentions are explained at paragraph 30 of the guidance:

*Electoral arrangements for a new or existing parish council will come into force at the first elections to the parish council following the reorganisation order. However, orders should be made sufficiently far in advance to allow preparations for the conduct of those elections to be made.*

With this in mind, the view is that the legislation intends to enact review recommendations at the same time as an election. However, local authorities do have the power to vary the date of parish council elections generally as part of a reorganisation order.

Section 97(6) of the [Local Government and Public Involvement in Health Act 2007](#) allows a local authority, in making a recommendation or order, to modify or exclude the application of sections 16(3) and 90 of the *Local Government Act 1972*. These are the provisions which set the timing and regularity of elections.

Through this power, a local authority can include a clause in their reorganisation order setting an entirely different election date. Using this, it is possible for the local

authority to set a new parish election date as part of the recommendation and subsequent order.

The current version of the report is legally acceptable.

## 6. Value for Money

Proposals for encouraging local democracy will need to be balanced against the Council's commitment to delivering value for money.

## 7. Sustainability Impact Appraisal

This recommendation has no direct impact on sustainability issues.

## 8. Risk Management

Risk	Uncontrolled Risk	Controls	Controlled Risk
There will be insufficient candidates coming forward to warrant contested elections: <ul style="list-style-type: none"> <li>- Either in May 2015 when the next full scale elections occur</li> <li>- Or where an election has been triggered by the Council.</li> </ul>	High	The Council will maintain a register of potentially interested candidates in each town/parish area who would be encouraged to come forward in the event of an election.  The Council will implement actions identified in Appendix A to encourage candidates to come forward.	Medium
Parishes are discouraged by the high cost of elections from putting candidates forward.	High	The Council will support parishes with some/or all of the cost of elections.	Low
Continuing high turnover of casual vacancies – new Councillors are not retained.	High	Parishes are encouraged to introduce mentoring or similar schemes to support and encourage new councillors.  The Council could support parishes with induction training for new parish councillors.	Medium
Casual vacancies occur and notices are published but elections are not triggered within the requisite 14 days	High	The Council will give maximum publicity to notice of casual vacancies & encouraging ten residents to trigger an election.  Potential candidates on the proposed list will be	Medium



		encouraged to secure signatures needed to trigger an election.	
There are few contested elections at the all out 2015 elections.	High	The Council gives maximum publicity to the elections and to encouraging sufficient candidates to come forward.	Low
There is little evidence any of the proposed measures are making any difference.	Medium	The Council proposes a community governance review – re-constituting existing parishes where appropriate.	Low
There is insufficient resource within the Electoral Services team to cope with an increased number of elections.	High	The Council considers secondment of an officer from another part of the Council or an additional casual post employed on an as and when basis.	Low
There are only 4 vacancies at present. The council could potentially raise people's interest in standing as parish councillors at a point when there are no available vacancies.	Medium	The Communications and Marketing Plan will have to be carefully planned with a view to optimum timing.	Low

## 9. Links to Strategic Objectives

Improving local democracy contributes to the Council's Big Society objectives and to the working for safer and stronger communities objective.

## 10. Equalities, Human Rights and Community Cohesion

There are no equalities or human rights implications arising from these recommendations. Effective representative democracy can contribute to community cohesion.

## 11. Staffing/Workforce and Accommodation implications:

The Electoral Services team comprises 2.15 fte employees. Elections held at the scheduled time can be contained within the team's existing workload but the size of the team and the fixed nature of the timetable means that these employees usually work between them 250-400 hours additional hours over a 6-8 week period immediately before polling day. They also have the support of a casual person working 150-200 hours over this 6-8 week period. A scheduled election will create an additional 400-600 hours work.

A by-election can take 60-80 hours to deal with on top of the day to day workload. With an average of 10.5 vacancies per year this could mean an additional 640-850 hours a year just managing parish by elections.

## **12. Property and Assets**

None

## **13. Any other implications:**

None

## **14. Consultation**

Any changes to parish election arrangements will be discussed with parish representatives at the parish conference.

A community governance review, with a view to changing parish boundaries would require a major consultation exercise. Details of the review process are attached as Appendix B.

## **15. Timetable for Implementation**

The timetable for implementation is outlined in Appendix A.

## **16. Appendices**

Appendix A - Action Plan for increasing Local Democracy.

Appendix B – Community Governance Review.

Appendix C – Draft Marketing and Communications Plan

## **17. Background Information**

17.1 The Big Society Panel 16<sup>th</sup> July agreed that more work should be done to support Parishes in advertising vacancies and enabling by-elections to take place if more than one candidate comes forward. The need for increased democracy through reducing the number of new councilors co-opting onto Parish Councils was supported by the Panel as being in the best interest of local democracy.

17.2 The Head of Legal Services agreed to look into the issue of time periods in relation to a candidate being put forward and the deadline for further applications.

17.3 It was agreed that a full report should be brought to the next Big Society Panel and it was requested that there should be some focus on how best to attract younger people, such as through a mentoring system in Parishes.

17.4 The proposed actions will build on and support the Action Plan previously agreed with the District Association of Local Councils (DALC) and will be considered alongside the existing plan as part of the forthcoming formal review.

## **17.5 How Parish Council Elections Work**

### **Election and nominations**

17.5.1 Elections to Parish Councils are held every four years. Parish Councilors are elected for a period of four years or until the next parish election. The election cycle is usually linked to the cycle for borough elections.

17.5.2 The notice for an election has to be published no later than 25 working days before the poll and will state the earliest date on which nomination papers can be submitted. The notice of election will be published on the Council's website and in the relevant parish.

17.5.3 To be nominated as a candidate at a parish election in England or Wales, candidates have to submit a completed set of nomination papers to the Returning Officer by 12 noon on the 19th working day before the poll. Candidates must qualify by meeting certain criteria and signing a declaration stating this is a requirement. The deadline for submitting nomination papers is set out in law and can't be changed for any reason. The earliest date nominations can be submitted is stated in the notice of election.

17.5.4 Where there are an equal number or fewer candidates than there are vacancies, all candidates are elected unopposed, and there is no election.

### **Co-option**

17.5.5 If there are more candidates than vacancies, an election must be held but if there are fewer candidates than there are vacant seats, the Parish Council has a duty to coopt a suitable candidate or candidates to fill the vacancies.

17.5.6 The power to co-opt can only be exercised within 35 days (excluding dies non) of the election and if there is a quorum of councilors present. If the Parish Council fails to fill the vacancies within this period, the Council has the power to fill vacant seats to make a quorum and order elections to fill the vacant seats.<sup>2</sup>

### **Casual vacancies**

17.5.7 If a vacancy occurs during the term of a parish council, it can be filled by either election or cooption. Elections only occur if, following the advertisement of the vacancy for 14 days (exc. dies non), 10 electors send a written request to the returning officer. If no request is received, the parish council is required to fill the vacancies by cooption.

17.5.8 Once an election request has been received the parish cannot co-opt new members. If there are not enough valid nominations to fill the vacancies further election dates have to be set. Each time the election process is restarted further costs will be incurred.

17.5.9 If the number of vacancies on the parish council is such that there is no longer a quorum, the borough council can temporarily appoint people to bring the council up to strength in the interval prior to an election.

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<sup>2</sup> Representation of the People Act 1985 – C50, Section 21

17.5.10 If a casual vacancy occurs within six months of the next ordinary elections when the councillor would have retired, no election is required to be held. Casual vacancies occurring within these six months can remain unfilled. Parish Council's may co-opt a person to fill a vacancy but they must remember to publish a Notice of Casual vacancy first.

## 17. 6 Number of parish elections held over past five years

Year	No. of Vacancies Occurring	No. of elections held
May 2007- April 2008	13 vacancies (in year following all out elections)	1 election held
May 2008 – April 2009	6 vacancies occurred	0 elections held
May 2010-April 2011	7 vacancies occurred	0 elections held
<b>May 2011 – All out elections</b>	<b>27 parish electoral areas (164 seats)</b>	<b>4 elections held*</b> (12 vacancies remaining after the election)
May 2011 – April 2012	6 vacancies	0 elections held
May 2012 – April 2013	14 vacancies	1 election held (elected unopposed)
May 2013 – present	1 vacancy	1 election to be held 3 October 2013

\*There were 137 candidates in 2011 for 164 seats.

Of 160 councillors currently sitting on parish councils (4 vacancies) 37 were co-opted the remainder were elected. A majority of sitting councillors were elected unopposed.

## 17.7 Can the Borough Council trigger a parish election?

17.7.1 The Council can trigger a parish election, as referred to above, if following normal parish elections, the parish fails to fill its outstanding vacancies by co-option within thirty five days.

17.7.2 The Council does not have powers to trigger an election in the event of a casual vacancy but could encourage the necessary ten residents to request one within the 14 day period following advertisement of the vacancy.

17.7.3 The Council can also institute a community governance review. These are intended to address potentially anomalous parish boundaries and, where they result in changes to existing arrangements, would trigger an election for newly constituted councils. It is good practice to undertake a governance review periodically and it would be an appropriate tool if a parish (or parishes) no longer appeared to have a democratic mandate.

17.7.4 The process for a community governance review is outlined at Appendix B. Department of Communities and Local Government Guidance indicates that a review will take approximately 12 months to complete.

17.7.5 Actions that the Council could potentially take to encourage more candidates (particularly young people) to come forward for nomination are addressed in the attached Action Plan.

These include:

- Developing a register of potentially interested candidates who could be contacted in the event of a potential election
- Inviting personal recommendations for candidates from a range of stakeholders and organisations including: ward councillors, local businesses, residents associations, faith communities and the Youth Council.
- Developing a publicity and communications plan for attracting potential parish councillors & making sure vacancies are widely advertised
- Encouraging parishes to establish youth councils or have non voting youth representatives (cadet councillors)
- Identifying parish ambassadors who would invite potential candidates to come forward

## 18. Consultation (Mandatory)

Name of consultee	Post held and Department	Date sent	Date Received	See comments in paragraph:
<b>Internal</b>				
Cllr Burbage	Leader of the Council	03/09/13	06/09/13	Draft marketing/communications plan added.  Action Plan targets reviewed to make them SMARTER
Cllr Bateson	Lead member	02/09/13	03/09/13	Comments incorporated throughout.
Cllr. Airey	Lead Member	02/09/13	02/09/13	
Andrew Elkington	Head of Policy and Performance	20/08/13	21/08/13	Comments incorporated throughout.
Maria Lucas	Head of Legal Services	21/08/13	21/08/13	
Andrew Brooker	Head of Finance	21/08/13	21/08/13	

### Report History

Decision type:	Urgency item?
Non-key decision	No

Report no.	Full name of report author	Job title	Full contact no:
	Andrew Green	Community Partnerships Coordinator	01628 682940

### Schedule for writing and reviewing report

<b>Stages in the life of the report (not all will apply)</b>	<b>Date to complete</b>
1. Officer writes report ( in consultation with Lead Member)	20/08/13
2. Report goes for review to head of service or DMT	21/08/13
3. To specialist departments: eg, legal, finance, HR (in parallel)	21/08/13
4. To lead member	02/09/13
5. To SMT or CMT	N/A
6. To the leader	03/09/13
7. To overview or scrutiny, if a cabinet report	N/A
8. To cabinet	N/A