

Report to: Cabinet

Date: 18th March 2010

Subject: Community Governance Review

Report of: Service Director Borough Solicitor

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Purpose / summary: To seek Members' views on the nature of a Community Governance Review to be carried out following the receipt of a petition seeking the formation of a town council

Alternative options considered and reason for selecting the one recommended: The report contains alternatives as to the nature and extent of such a Community Governance Review

Recommendation / decision: Members' instructions are requested upon the nature and extent of a Community Governance Review to be carried out pursuant to the provisions of the Local Government and Public Involvement in Health Act 2007 following the receipt of a petition seeking the formation of a town council and taking into account the guidance of the Secretary of State for Communities and Local Government and the Electoral Commission

Key Decision: This report does not involve a key decision. The decision made as a result of this report will be published within **48 hours** and cannot be actioned until **seven working days** have elapsed, i.e. before 30 March 2010.

Risks / Implications:

Financial:	There will be costs in relation to the undertaking of a Community Governance Review which can be assessed on the drafting of the relevant Terms of Reference document
Staffing:	None
Policy:	Strengthening Community Engagement
Equal Opportunities - Has a Diversity Impact Assessment been conducted?	Not applicable

Wards affected:

The petition that has been received affects
Atherton, Atherleigh and Tyldesley

Property Implications– Does the proposal involve a reduction, addition or change to the Council’s asset base or its occupation?

No

Does this proposal have significant implications for the Council and the local population?

Yes

Does this proposal involve a new policy or procedure or significant changes to an existing policy or procedure?

No

Has the confirmed that the recommendations within this report are lawful and comply with the Council’s Constitution? **Yes**

Has the Service Director Corporate Services confirmed that any expenditure referred to within this report is consistent with the Council’s budget? **Yes**

Are any of the recommendations within this report contrary to the Policy Framework of the Council? **No**

For Cabinet reports only :

Categorisation of the report:	x
Discussion leading to a decision	x
Monitoring	
Sharing for corporate understanding	

	x
Discussion	
Decision	
Information	

Tracking/Process:

	Consultation	Ward Members	Partners
Panel	Overview & Scrutiny	Cabinet	Council
		18 th March 2010	

List of Background Papers in accordance with Section 100D of the Local Government Act 1972:

Document	Date	File Reference	Place of Inspection
Petition received on 10 th November 2009	November 2009		Town Hall, Library Street, Wigan WN1 1YN

Proper Officer

K P Lawson

1. Background

- 1.1. The Local Government and Public Involvement in Health Act 2007 devolved the power to take decisions about matters such as the creation of parish and town councils and their electoral arrangements from the Secretary of State and the Electoral Commission to local authorities. Wigan Council, as a principal council under these provisions, has a duty to carry out a Community Governance Review if it receives a valid Community Governance Petition (such as a request for a formation of a town or parish council). Such a Review can relate to a specific area within the Borough or can relate to the whole of the Borough. Guidance issued by Communities and Local Government and the Electoral Commission which the Council must have regard to does recommend that the Council considers conducting a review every 10 to 15 years and that the Council should consider the benefits of undertaking a review of the whole of the area rather than carrying out small scale reviews in a piecemeal fashion.
- 1.2. The Council is required to conclude a Community Governance Review within 12 months of the receipt of a petition which meets the relevant statutory requirements. The Council has received a petition which has been validated for the formation of a town council in relation to Atherton. The petition requests
 1. That a new town be constituted under Section 87 of the Local Government and Public Involvement in Health Act 2007
 2. That the new town should have a town council to be known as Atherton Town Council
 3. That the area to which the review is to relate be defined as shown on a map attached to the petition, being the electoral wards of Atherton and parts of Atherleigh and Tyldesley. (The map relates to the former area of the Atherton Urban District Council).
- 1.3. The area identified on the map was checked against the electoral register and was found to contain 16,363 electors. This meant that the petition needed to contain 1,637 (10%) valid signatures to have effect. A process of validation against the electoral register showed that 2,051 of the 2,333 signatures on the petition were valid on an initial check.
- 1.4. It is known that a petition has also been completed in relation to Leigh and that petition is to be formally presented shortly. It is also known that a petition seeking to disestablish Shevington Parish Council has also been circulated and again is likely to be presented formally shortly.

2. A Community Governance Review

- 2.1. In carrying out a Community Governance Review the Council must consult with the local government electors for the area under review and any other person or body likely to have an interest in such a review. The Council is not required to hold a referendum but may do so if it wishes. The Council must, however, take into account any representations received in considering the

outcome of such a review and the Council is also required to consider issues including:-

- The need to secure that the community governance reflects the identities and interests of the community in the area under review
- The need to secure that community governance in that area is effective and convenient
- The impact of existing community governance arrangements on community cohesion
- The size, population and boundaries of any proposed parish or town council

2.2. In carrying out a Community Governance Review then the Council must consider the wider picture of community governance. This includes taking account of well established forms of community governance such as local residents associations, community forums and indeed township forums. These can be considered as either alternatives to or stages towards establishing parish or town councils. The guidance does however indicate that parish and town councils are set apart from these other kinds of governance by the fact that they are a democratically elected tier of local government and can budget and possess specific powers.

3. Terms of Reference

3.1. The Council is required to determine and publish Terms of Reference under which an Community Governance Review is to be undertaken. The Council must have regard to the recommendation in any petition received and also obviously has a duty in relation to its wider community governance functions. The first consideration then for the local authority is the area of the Review. While the petition calls for the review to be carried out in relation to the whole of the former Atherton UDC area, clearly that area does impinge on three Wards of the Council. The Review therefore could consider all three Wards rather than just the area covered by the petition. It is, however, known that a petition is to be presented shortly in relation to Leigh. The boundaries of that petition seeking a town council for Leigh are not as yet clear. It is also known that a petition is circulating and is likely to be presented shortly in relation to a proposed disestablishment of Shevington Parish Council.

3.2. The options then for the Council in relation to the area of a Community Governance Review appear to be as follows:

- a. the area covered by the initial petition, the former Atherton UDC area
- b. an area including all the Wards affected, namely, Atherton, Atherleigh and Tyldesley
- c. an extended area to cover areas where it is known that a petition is shortly to be presented in addition to the area covered by the initial petition
- d. separate Reviews could be carried out in relation to each area affected by a petition

- e. the Council could carry out a Review of the whole of the Borough
- 3.3. A Review of the whole of the Borough would have the benefit of including those areas where a petition has not been circulated and would enable the Council to take a wider view of the existing community governance arrangements as a whole. It may well be the case that following an initial consultation across the Borough then a more detailed consultation on particular options in various areas could be considered and clearly in this regard petitions that have been received will be of relevance.
- 3.4. The Terms of Reference document to be prepared would set out the nature of the consultation and a timescale for that consultation. It is suggested that once the Members' view on the nature of the Review is known then officers be requested to present a draft Terms of Reference to future a Cabinet meeting.

4. The Process to be followed in carrying out a Community Governance Review

- 4.1. While the Council must consult with local electors and other stakeholders, such as local businesses, local public and voluntary organisations including schools and health bodies, there is no specified manner in which that consultation needs to be carried out. There is quite a body of recent evidence of a range of processes to be followed generally involving at least a two-stage process on the following lines
- An initial consideration of potentially viable options for community governance in the area under review is prepared
 - A consultation plan is then drawn up focused on consulting on those viable options
 - A Stage 1 consultation is then carried out in relation to those various options
 - An evaluation and analysis of the responses received is carried out and a draft recommendation considered by Cabinet
 - A Stage 2 consultation on the draft proposals is then carried out. This can be more targeted in relation to the areas affected and can be more detailed in the sense that a referendum in certain areas can be undertaken
 - Further evaluation and analysis of the responses is carried out leading to a recommendation to Council
 - The final relevant Order, if an Order is to be made, is a matter for the full Council
- 4.2. There are a range of methods of consultation and ways of seeking representations and views. These can include the use of local authority newspapers and website, the publication of leaflets and information, meetings with existing bodies and institutions, press notices and advisory polls. It does seem that the nature of the consultation is affected by the nature and extent of the Review and the relevant stage of the Review being undertaken. If

there is a specific proposal by way of a petition for a specific area then it is more likely that some form of detailed consultation, possibly by way of referendum, is likely to be required. If, however, the Review covers the whole of the Borough then, at least at the initial stage, it is not likely that a poll of the whole area would be required.

- 4.3. In relation to Wigan, clearly a petition in relation to a specific area has been received and if a Review of that area alone is to be carried out then it is likely that some form of poll by way of reference to households or electors would be appropriate. In the event however that the Council decides on a Boroughwide review it is suggested that in the initial stages a more general consultation will be carried out seeking the views of the public on potential options.

5. Conclusion

- 5.1. Members' views are sought on the nature and extent of a Community Governance Review that should be carried out following the receipt of a petition seeking the formation of a town council. Once that decision is made then it is recommended that officers be requested to submit a draft Terms of Reference for such a Review to an early Cabinet meeting to suggest details of the relevant consultations and timescale.

Kevin Lawson
Service Director Borough Solicitor