

WESTMORLAND AND FURNESS JOINT COMMITTEE

Meeting date: 11 April 2022

Report of: Linda Fisher, Monitoring Officer and Technical Lead, Legal and Democratic Workstream (South Lakeland District Council)

Subject: Civic and Ceremonial Matters

1.0 SUMMARY:

1.1 This report informs Members about the work currently being undertaken in respect of civic and ceremonial matters and updates on the timetable for the Consequential Order to implement the establishment of Charter Trustees to preserve the Civic and Ceremonial Rights of the existing Councils.

2.0 RECOMMENDATIONS:

2.1 That the Joint Committee note the work being undertaken and timings provided by the Department for Levelling Up, Housing and Communities (DLUHC) in respect of the Consequential Order.

3.0 BACKGROUND, INTRODUCTION AND CONSIDERATIONS:

3.1 The Cumbria (Structural Changes) Order 2022 (SCO) which came into force on 18 March 2022 sets out the main provisions governing the administrative reorganisation of the seven Cumbrian Councils. Members will be aware that the seven Councils will cease to exist and be replaced by two new unitary councils on 1 April 2023.

3.2 Arising from the closure of the councils there are many matters relating to Civic and Ceremonial affairs that arise some of which are dealt with in the SCO and others which will need further attention, including in some cases, further legislative provision, known as “mopping up” or Consequential Orders. This is not an unusual approach and research has shown that in respect of previous local government reorganisations there were also Consequential Orders. These allow the sovereign councils to work together and establish those matters, particular to their communities, that need to be dealt with and addressed via a legislative process. It covers many locally specific matters, not just those of a Civic and Ceremonial nature.

3.3 Those Civic and Ceremonial matters which are provided for in the SCO, so will be dealt with and not require further intervention, include:

3.3.1 The High Sherriff and Lord Lieutenant – Articles 28 and 29 of the SCO, amend the relevant legislation that governs the areas for the purposes of lieutenancies and the sheriffs. The area of “Cumbria” is to comprise the local government areas of “Cumberland, Westmorland and Furness”. This means that the High Sheriff and Lord Lieutenant for Cumbria will from 1 April 2023 preside over both new unitary councils as one single area, known as Cumbria. The issues that will need exploring further in relation to these ceremonial posts are:

- The arrangements for hosting and clerking of the Lord Lieutenant. This function is currently carried out by the Chief Executive of Cumbria County Council. Options are being explored on possible models, it is likely that either Cumberland or Westmorland and Furness will need to host and clerk the service.
- The appointment of the new Lord Lieutenant. Her current term of office expires in June 2023 and a process of appointing a replacement will commence in Autumn 2022.
- No consideration or action is needed in respect of the High Sheriff as these are appointed by central government appointments committee on an annual basis and the appointments for the next 3 years are already in place.

3.4 Other civic and ceremonial matters however are not covered in the SCO and will need addressing by way of further legislation. Assurance has been given by the civil servants that DLUHC will be including these within a Consequential Order for Cumbria. The timetable which has been provided for this is that they will engage with the relevant officers in the respective councils between now and Autumn 2022 with the intention of laying further legislation for parliamentary approval at the start of 2023.

3.5 This report illustrates examples of the traditions that it is anticipated each council may wish to preserve and outlines the options available to secure the continuation of these matters, the legal basis, the associated issues and consequential (or other) arrangements that will need to be put in place. Although not exhaustive, examples of Civic and Ceremonial Rights, Privileges, Property and Insignia requiring retention includes:

- The Mayoralty for those councils which are set to be abolished
- Honorary Freemen and Honorary Aldermen
- Historic market and other Charters
- Freedoms of the Boroughs
- Armorial Bearings
- Civic and Ceremonial Property and Regalia (including robes, chains, badges of office, maces, swords, plate, books, oars, wands, banners, staves, goblet and halberds and Royal Charters) and the varying arrangements with museums in operation throughout Cumbria.

3.6 Mayoralty:

3.6.1 The Mayoralty is an important and respected role in the history of the Cumbrian Cities, towns and boroughs. Cumbria has the following Mayors, within the Westmorland and Furness area whom residents view as a figurehead for community engagement, fund raising and civic pride. Their continuation will be important in supporting the acceptability of change, maintaining and developing positive contact with the community and retaining a sense of local identity. The majority of Mayors are Mayors of Town Councils which will remain unchanged, we have identified only the Mayor of Barrow which is an unparished area as one that needs to be addressed:

3.6.2 Mayors

- Barrow-in-Furness

3.6.3 Towns Mayors

- Appleby-in-Westmorland
- Broughton-in-Furness
- Dalton-in-Furness
- Grange-over-Sands
- Kendal
- Penrith
- Ulverston
- Windermere & Bowness

3.6.4 Where these are already in place the Mayoralty will remain with the Town or Parish, be preserved and no changes will be needed, however, in unparished areas, there are two options available for ensuring that these traditions are respected and maintained for future generations; the establishment of Charter Trustees or creation of Parish Councils.

3.7 Charter Trustees

3.7.1 Charter trustees are established under the Local Government Act 1972 and are given effect to by further legislation (the Consequential Order) in local government reorganisation for towns and cities which have a Royal Charter but which will otherwise lose their status as local government entities following local government restructures.

3.7.2 Charter trustees are a representative body consisting of members who are elected to represent the area where the ceremonial rights and privileges are to be preserved.

3.7.3 In order to preserve the current mayoralty, together with the Civic and Ceremonial Rights, Privileges, Property and Insignia, Barrow in Furness Borough Council have formally resolved to support the establishment of Charter Trustees and officers have requested that DLUHC include the necessary provisions in the Consequential Order in respect of each mayoral area which is unparished.

3.7.4 Each set of Charter Trustees would therefore comprise the councillors elected and representing those wards in Barrow which are covered by the respective trustee area.

3.7.5 The functions of a charter trustee are limited to preserving (including the insurance of) historic property, privileges, rights and traditions presently enjoyed by a local authority which is to be abolished.

- 3.7.6** “Historic property” means any charter, insignia, plate or other property which is of an historic and ceremonial nature, held by a relevant council, other than land and buildings or any property held for the purposes of any statutory function. A full inventory is being compiled of all the historic and ceremonial assets owned by the relevant councils. It should be noted that ‘preserving’ historic property includes arranging insurance.
- 3.7.7** Charter trustees are not permitted to administer mayoral charities and cannot fulfil a twinning role. These will be functions of the unitary authority.
- 3.7.8** Charter trustees cannot be wound up at a later stage. They only cease if their privileges and rights are transferred to a parish or town council which could follow a Community Governance Review.

3.8 Community Governance Reviews

- 3.8.1** Under the Local Government and Public Involvement in Health Act 2007, a principal council in England may undertake a Community Governance Review (‘CGR’), either on its own initiative or in response to a petition from local electors.
- 3.8.2** The CGR examines whether one or more parishes should be created, divided, merged or abolished in order to ensure that local government arrangements are ‘effective and convenient and ‘reflect the identities and interests of the community in that area’. The new parish may be able to have a parish council if there are sufficient electors in its area, which council will be able to style itself as a parish, town, community or city council.
- 3.8.3** As referenced above, a Community Governance Review is currently underway in Barrow, The Structural Changes Order contains provisions to enable the Shadow Authority to commence or continue from any stage that the CGR has reached.
- 3.8.4** At the time of writing this report, Barrow is undergoing the first consultation stage following which final recommendations will be prepared for the second consultation stage.
- 3.8.5** Unlike charter trustees, parish and town councils are permitted to administer charities and can fulfil a twinning role.

3.9 Freedoms

- 3.9.1** There are two types of freedoms – hereditary freedoms and honorary freedoms.
- 3.9.2** Hereditary Freedom is granted to descendants of freemen of a city or town who will benefit from certain privileges and rights, although most of those rights and privileges have now been ended by statute.

3.9.3 Honorary Freedom is different from the status of freeman. It is purely honorary in nature and confers no rights on the person so recognised. All principal councils, parish and community councils, and Charter Trustees in England may confer the title on persons of distinction or who have rendered eminent services to the local area.

3.9.4 The Local Government (Structural Changes) (Transitional Arrangements) No 2 Regulations 2003 provide that, after reorganisation, honorary freemen will continue to be freemen of an area corresponding to the area of which they were freemen prior to the reorganisation. Further, the Regulations preserve the rights of honorary freemen and ensure that services rendered to an abolished council can be treated as services rendered to the continuing or new council.

3.9.5 It is proposed that honorary freedoms are awarded going forward by the existing town councils and by the new Charter Trustees in Barrow.

3.10 Ceremonial and Historic Property and Civic Regalia

3.10.1 Civic and Ceremonial Regalia and property are those chattels and property which are not held for the purpose of any statutory function. This includes such items as robes, chains and badges of office, medallions, ceremonial collar, brooches, pendants, mayors jewel with coat of arms, maces, swords, plate, goblet and books. It also includes Royal Charters.

3.10.2 There are different arrangements on the part of the respective authorities for their insignia and regalia. Some is held by the authorities within their civic buildings. Others are on public display. A full list of items is being compiled and research and investigation is ongoing to determine the nature of contractual arrangements with museums. . Such property may transfer to the new authority or to existing town and parish councils, or to the Charter Trustees and contractual arrangements may transfer by operation of law to the new authority or by novation or assignment to existing town and parish councils or to Charter Trustees.

3.11 Town Twinning

3.11.1 The table below sets out the various twinning arrangements operated throughout the Westmorland and Furness area.

Town	Twinned with	Administered by
Coniston	Illers-Combray, France, Solto Collina, Riva di Solto, Fonteno, Italy	Coniston Twinning Association
Dalton in Furness	Dalton, Pennsylvania, USA	
Kendal	Rinteln, Germany Killarney, Ireland	Kendal Town Council
Penrith	Penrith, New South Wales, Australia	Eden District Council
Sedbergh	Zrece, Slovakia	Sedbergh Town Twinning Group
Ulverston	Albert, France	Ulverston Town Council
Windermere	Diessen, Germany	Windermere and Bowness Town Council

3.11.2 Town Twinning is a function which originates from the post-war period to foster friendship and understanding throughout Europe and, latterly, the world. Local Authorities are able to participate in twinning arrangements by virtue of the Local Government (Overseas Assistance) Act 1993. It is not possible to transfer the twinning function to Charter Trustees, whose functions are set out in the Charter Trustee Regulations 2009 and, therefore, it is proposed that the function shall transfer to the new authority.

4.0 OPTIONS, INCLUDING ALTERNATIVES (IF ANY)

4.1 The report sets out the various approaches which are proposed in relation to the different matters. It is important that action is taken so that historic rights and privileges are not lost.

4.2 The report is for noting at this stage and further reports will be brought to the Shadow Authority or Sovereign Council's as appropriate.

5.0 IMPLICATIONS:

5.1 Financial:

5.1.1 There are no direct financial implications from this report as it is for noting. As part of the overall disaggregation and aggregation of revenue budgets process the associated existing revenue budgets available to support the Lord Lieutenant will be identified and transferred as appropriate. This will also be the case for any revenue budgets available to support Mayors. In addition the ceremonial and historic property and civic regalia will transfer as determined through the disaggregation of assets and liabilities process and in accordance with the Shadow Authorities decisions.

5.1.2 Where required the financial implications from future decisions by the Shadow Authorities in respect of the Community Governance Review will be reflected in the development of the relevant Unitary Authorities revenue budgets and Medium Term Financial planning.

5.2 Staffing:

5.2.1 There are no direct implications associated with this report, aside from a decision will need to be made by the Shadow Authority in respect of the hosting and the appointment of the clerk to the Lord Lieutenant.

5.3 Legal:

5.3.1 The Joint Committee has within its Terms of Reference the requirement to oversee the smooth transition of all matters Civic and Ceremonial.

5.3.2 The Cumbria (Structural Changes) Order 2022 – articles 28 and 29 amend the Lieutenancies Act 1997 and the Sheriffs Act 1887 to transfer the relevant geographical area from Cumbria to Cumberland, Westmorland and Furness for both the High Sheriff and the Lords-Lieutenant.

5.3.3 In the absence of further action, those areas without a parish may lose important historic rights as set out in this report. Accordingly, the Consequential Order will include provisions to establish Charter Trustees.

5.4 Information Governance:

5.4.1 There are no direct Information Governance implications associated with this report

6.0 HEALTH AND SUSTAINABILITY IMPACT:

6.1 There are no direct implications associated with this report.

6.2 EQUALITY AND DIVERSITY IMPACT:

6.3 There are no direct implications associated with this report.

7.0 RISKS:

7.1 If action is not taken, there is a risk that the civic and ceremonial rights outlined in this report will cease on 31 March 2023. The report sets out the action which is proposed to ensure that these rights are not lost.

8.0 CONCLUSION:

8.1 This report updates members on civic and ceremonial matters affecting the transfer of functions between the predecessor and new councils which will take effect from 1 April 2023.

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APPENDICES

No Appendices.