

**Committee:** Council  
**Date:** 10 February 2004  
**Agenda Item No:** 13  
**Title:** Appointment of Parish Councillors at Swards End  
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### **Summary**

- 1 This report sets out the arrangements that are required to appoint parish councillors to take office when the new parish council at Swards End comes into operation on 1 April 2004. Although The Uttlesford (Parishes) Order 2003 directs the Council to establish a parish council from this date, there is presently no lawful provision to hold an election as the Electoral Commission is unable to make the necessary order implementing an electoral scheme in the parish. The only available solution is for the Council to use its powers under the Representation of the People Act 1983 to appoint parish councillors until such time as an election can take place.

### **Background**

- 2 Following a parish review conducted in 2001 and 2002, the Council recommended the Office of the Deputy Prime Minister (ODPM) to create a new parish of Swards End from part of the existing parish of Saffron Walden.
- 3 The Uttlesford (Parishes) Order was duly made by the ODPM in September 2003. The order provides for a new parish of Swards End to be constituted and directs the Council to establish a parish council with effect from 1 April 2004. An order giving effect to this direction was made on 28 January.
- 4 A recent legislative change has transferred to the Electoral Commission (EC) from ODPM functions relating to electoral arrangements in new parishes. The EC is unable to make the necessary order enabling an election of parish councillors on 25 March, as originally intended. However, the parish council must be in a position to function from 1 April.
- 5 The only solution is to use powers in the Representation of the People Act 1983 to appoint five parish councillors until such time as it is legally possible to hold an election. Applications from interested residents will be invited to be received by 12 Noon on 27 February. If there are more than five applicants, an informal poll will be held of electors in Swards End to guide the Council in appointing parish councillors.
- 6 No delegated authority exists to make appointments of parish councillors in these, or any other, circumstances. Members are requested to grant such

authority to enable appointments to be made immediately following the close of the informal parish poll on 25 March. It will be helpful to extend this power to apply in other circumstances where parishes are unable to act.

RECOMMENDED that:

- 1 delegated authority be granted to the Resources Committee to appoint parish councillors:-
  - (a) pursuant to s.39(4) Representation of the People Act 1983 in the event that a parish council is unable to operate because an election of parish councillors is not held or is defective for any other reason; or
  - (b) pursuant to s. 91 Local Government Act 1972 where there are so many vacancies in the office of parish councillor that the parish council is unable to act;
- 2 in view of the timescale involved in this case, authority be given to the Chief Executive in consultation with the Chairman of the Resources Committee, to appoint five parish councillors to serve on Swards End Parish Council effective from 1 April 2004 until 31 March 2005, or until such time as an election of parish councillors can be held, whichever is the earlier.

Background Papers: The Council's Parish Review Report; The Uttlesford (Parishes) Order 2003; and the EALC's development proposals for Swards End