



PETITION SUBMITTED BY MEMBERS OF THE PUBLIC

1 PURPOSE OF REPORT

- 1.1 This report has been prepared in response to a petition submitted by members of the public of which notice has been given pursuant to paragraph 12.15 of Chapter 2 of the Council's Constitution.

2 LINKS TO COUNCIL'S PRIORITIES AND OBJECTIVES

- 2.1 This links to the Council's People priority.

3 RECOMMENDATION

- 3.1 It is proposed that Council **RESOLVES**

EITHER

- (1) to consider the call for action set out in the Petition

OR

- (2) to take no further action in respect of the Petition

4 INTRODUCTION

- 4.1 On 8 August 2024 a petition (the "Petition") was handed in to the Council's reception and was immediately brought to the attention of the Chief Executive. The Chief Executive emailed the Petition's organiser the following day to acknowledge receipt of the petition and to advise that, in line with the Council's Constitution, the Petition would be referred to the next meeting of Full Council on 9 October 2024.

- 4.2 The Petition's call for action is: "*We the undersigned being residents of Canvey Island, call on Castle Point Borough Council to accept this PETITION, as a vote of no confidence and calling for a referendum, to remove Canvey Island Town Council as the fourth tier of Government in the Borough and return to Borough Control only.*"

- 4.3 The Council is, therefore, being asked by the residents of Canvey Island who are the signatories to the Petition - firstly, to endorse the subscribers “vote of no confidence” in Canvey Island Town Council (“the Town Council”) and secondly, to hold a referendum to abolish it.

5 VALIDITY

- 5.1 The Council’s Constitution at paragraph 12.15 of Chapter 2 deals with petitions and is reproduced below:

“Petitions sent to the Council will be passed directly to the Chief Executive who will acknowledge receipt and refer to full Council or the Cabinet at the next appropriate meeting.

The Council will respond to all petitions which demonstrate sufficient local support and number of signatures that cause the Council to consider those petitions.

Petitions meeting this criteria will receive a substantive response reflecting the view of the Council on the issue(s) and/or proposed actions as soon as reasonably practicable and within a Council cycle.”

Number of signatories

- 5.2 The Constitution does not place any numerical requirement on the number of signatures required before a petition can be considered, referring only to “sufficient local support”. The Petition’s organiser claims to have collected 3,783 signatures, which on the face of it would likely be considered as meeting the threshold of sufficiency.
- 5.3 Officers reviewed the signatures submitted and the following discrepancies were noted:
- 5.3.1 There were some entries without signatures;
 - 5.3.2 There were some examples of multiple entries signed by one person;
 - 5.3.3 There were some entries with no addresses;
 - 5.3.4 There were some entries whose addresses were out of Borough;
 - 5.3.5 There were some entries whose addresses were not on Canvey Island;
 - 5.3.6 There were some addresses that were non-residential;
 - 5.3.7 There were some addresses that were “care of” an address; and
 - 5.3.8 There were some rows crossed out or blank.

- 5.3.9 In addition, officers checked approximately 10% of the entries on the Petition against the electoral register to ensure that they were Canvey Island residents – 10% being a statistically representative sample. 82 of those sampled were Benfleet addresses and so were discounted.
- 5.4 On the basis of this assessment, the Petition potentially has a total of 3,582 valid entries. That number remains an estimate because officers have not checked every address/name with the electoral register – only 10%.

Basis on which signatures were sought

- 5.5 The Chief Executive has received complaints from two members of the public concerned that signatures to the Petition were obtained on the basis that the Petition was to “Save Canvey Lake” rather than the call to action set out in paragraph 4.2 above. The members of the public explained that they had been approached on the basis of signing to “get the lake done” but that when they asked what the Petition was planning to do about the lake, they were told it was to get the Town Council to resign. They declined to sign the Petition.
- 5.6 As part of the Petition there were 15 sheets of signatories entitled: “Save Canvey Lake”. Following the review described in paragraph 5.3 above, officers determined that there were 973 potentially valid signatures which had been collected on those 15 sheets. It is not possible to say without tracing each and every signatory, whether those signatures had been obtained in line with the stated call for action and the signatories had, in fact, understood that.

Vires to respond to the call for action

- 5.7 The Council can only accept a petition about something that the Council is responsible for. The Council does not have the vires (legal powers) to accept responsibility for something which it is not responsible for.
- 5.8 The Petition is about the Town Council. The Town Council is an autonomous council within the statutory framework of local government. It was formally constituted by Government on 2 December 2006. The Council is not, therefore, responsible for the Town Council.
- 5.9 The first part of the call to action in the Petition is that the Council should endorse the subscribers “vote of no confidence” in the Town Council. A decision of the Council to do this would not and could not have any legal impact on the Town Council’s status and would be reputational only.
- 5.10 The second part of the call to action in the Petition is that the Council should hold a referendum to abolish the Town Council. Chapter 3 of Part 4 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) devolves the power to take decisions about matters such as the creation of parishes and their electoral arrangements to local government and local communities in England. Under the 2007 Act, the Council is the body to which the power is devolved and the mechanism for the Council to utilise this power

is through undertaking a community governance review. When undertaking a community governance review, Government guidance must be taken into account and can be found here [Community governance reviews: guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

- 5.11 There is, therefore, no vires (legal powers) for the Council to hold a referendum on the abolition of the Town Council as the mechanism for making changes to parish/town council arrangements is through a community governance review.
- 5.12 On that basis, a further line by line analysis of the signatories to the Petition and checking the other 90% against the Electoral Register was not undertaken.

6 COMMUNITY GOVERNANCE REVIEWS

- 6.1 Section 80 of the 2007 Act provides that a community governance review may be commenced by petition (a “Community Governance Petition”) and when a valid Community Governance Petition is presented to a council, then that council is under a duty to carry out a community governance review.
- 6.2 Officers have therefore considered whether the Petition amounts to a valid Community Governance Petition. In order for the Petition to be considered as a valid Community Governance Petition, it must comply with the requirements set out in the 2007 Act, as set out below.
- 6.2.1 The Petition must be signed by at least 10% of the electors in the area affected – which in this case is Canvey Island.
- 6.2.2 The Petition must:
- (a) define the area to which the review is to relate (whether on a map or otherwise), and
 - (b) specify one or more recommendations which the petitioners wish a community governance review to consider making.
- 6.2.3 If the specified recommendations include the constitution of a new parish, the petition must define the area of the new parish (whether on a map or otherwise).
- 6.2.4 If the specified recommendations include the alteration of the area of an existing parish, the petition must define the area of the parish as it would be after alteration (whether on a map or otherwise).
- 6.3 Officers considered the Petition against the statutory criteria to determine whether it amounts to a valid Community Governance Petition which would compel the Council to undertake a community governance review.

- 6.3.1 The first criterion (set out in paragraph 6.2.1 above) is whether the Petition has been signed by 10% of Canvey Island electors. The number of Canvey Island electors on the Electoral Register is 29,471, therefore 2,947 Canvey Island electors would need to sign. As set out above, the Petition's organiser claims to have collected 3,783 signatures. However, for the reasons set out above, officers have determined that the petition potentially has a total of 3,582 valid entries. On the face of it, that would be in excess of the 10% required but if the 973 "Save Canvey Lake" signatures are ruled out then the total number of valid entries on the Petition reduces to 2,609, which falls short of the required 10% of entries to amount to a valid Community Governance Petition.
- 6.3.2 The second criterion (set out in paragraph 6.2.2 above) is partially met in that the Petition does define the area – Canvey Island – but it does not specifically call for a community governance review and it does not specify one or more recommendations which the petitioners wish a community governance review to consider making.
- 6.3.3 The third criterion (set out in paragraph 6.2.3 above) relates to a new parish and so does not apply.
- 6.3.4 The fourth criterion (set out in paragraph 6.2.4 above) is not met because the Petition does not include any specified recommendations.
- 6.4 Officers have, therefore, concluded that the Petition does not amount to a valid Community Governance Petition and the Council is not, therefore, required to commence a community governance review.
- 6.5 It remains an option under the 2007 Act for the Council to commence a community governance review on its own account. It does not have to wait for a valid Community Governance Petition to be presented. Guidance suggests that councils should keep their community governance arrangements under review, and they should ensure that they consider on a regular basis whether a review is needed. A review may need to be carried out, for example, following a major change in the population of a community or to re-draw boundaries which have become anomalous, for example following new housing developments being built across existing boundaries. Councils should exercise their discretion, but it is considered to be good practice for a council to consider conducting a review every 10-15 years – except in the case of areas with very low populations when less frequent reviews may be adequate.
- 6.6 There has not been a community governance review since the Town Council was inaugurated in 2006. It would, therefore, be appropriate for the Council to consider conducting a review ahead of the next Town Council elections in 2027 and the Monitoring Officer will prepare a report for Council to consider in due course.

7 RISK IMPLICATIONS

7.1 None.

8 CRIME AND DISORDER IMPLICATIONS

8.1 None.

9 ENVIRONMENTAL IMPLICATIONS

9.1 None.

10 FINANCIAL IMPLICATIONS

10.1 If Council agrees recommendation 2, that is to take no further action, then no financial implications will arise. If Council agrees recommendation 1 then there is no financial implication to an endorsement of no confidence but the carrying out of a referendum is not within the Council's powers and therefore, would be an unlawful use of public money, requiring the s151 Officer to report the expenditure pursuant to s114 Local Government Finance Act 1988.

11 LEGAL IMPLICATIONS

11.1 There are none arising from this report. Petitions were introduced in the Local Democracy, Economic Development and Construction Act 2009, however, all sections regarding petitions have now been repealed by the Localism Act 2011. Whilst there are no legal requirements for the Council to adhere to, the Council's Constitution still contain the provision for a petition to be submitted and received.

12 HUMAN RESOURCES IMPLICATIONS

12.1 None.

13 EQUALITY AND DIVERSITY IMPLICATIONS

13.1 No Equality Impact Assessment has been carried out at this stage as the proposals as stated do not amount to a decision which would require an assessment.



Angela Hutchings

Chief Executive

Background Papers:-

None.

For further information please contact Angela Hutchings on:-

Phone: 01268 882402

Email: ahutchings@castlepoint.gov.uk