

# **CUMBERLAND JOINT COMMITTEE**

**Meeting date: 14 April 2022**

**Report of: Linda Fisher, Monitoring Officer and Technical Lead, Legal and Democratic Workstream**

**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 Matters 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 Matters 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 Matters Orders. This is not an unusual approach and research has shown that in respect of previous local government reorganisations there were also Consequential Matters 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” and “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, which will continue to be 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 for 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 the central government appointments committee on an annual basis and the appointments for the next three years are already determined.

**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 Matters 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
- Hereditary and Honorary Freemen, Aldermen and Recorders
- Ancient Market and Fishing Charters
- 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 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 Cumberland 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 Carlisle, which is an unparished area, as needing to be addressed:

### **3.6.2** City Mayor

- Carlisle

### Borough Mayors

- Allerdale

### Towns Mayors

- Aspatria
- Cockermouth
- Maryport
- Millom
- Silloth
- Whitehaven
- Wigton
- Workington

**3.6.3** Where areas are already parished, the Mayoralty will remain with the Town or Parish, be preserved and no changes will be needed. 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 a Community Governance Review to create a Parish Council.

## **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, Carlisle City Council has formally resolved to support the establishment of Charter Trustees and officers have requested that DLUHC include the necessary provisions in the Consequential Matters Order in respect of each mayoral area which is unparished. This action will also preserve the City Status of Carlisle.

**3.7.4** Charter Trustees would therefore comprise the councillors elected and representing those wards in Carlisle 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 Cumberland 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.
- 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.

### **3.9 Community Governance Reviews**

- 3.9.1** 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.
- 3.9.2** 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.
- 3.9.3** Community Governance Reviews are currently underway in Allerdale and Carlisle. The Structural Changes Order contains provisions to enable the Shadow Authority to commence or continue from any stage that the CGR has reached.
- 3.9.4** Carlisle is currently undergoing a CGR of its Stanwix Urban area in response to a petition. It has completed the first consultation and is in the process of drawing up recommendations for further consultation. It is expected to be in a position to take a report to full Council in September, which will then need to go to the Shadow Authority before an Order is made.
- 3.9.5** Carlisle has not yet begun a CGR of the remaining unparished urban area as it has not been compelled to do so by a petition and its Members resolved that a decision to do so should properly be the responsibility of the new Cumberland Council. If that new authority determines to proceed with a CGR, and creates a new parish council, it is proposed that that body will take over from the Charter Trustees.

**3.9.6** Allerdale has also received a CGR petition requesting that a parish council be established for Flimby, which is currently a ward of Maryport Town Council. Council agreed the terms of reference of the CGR which includes a review of the whole Maryport Town Council area. The start of the review was postponed because of the pandemic, however, it is due to be completed during 2022 and any changes will be implemented at the 2023 parish council ordinary elections.

**3.9.7** Unlike Charter Trustees, parish and town councils are permitted to administer charities and can fulfil a twinning role.

### **3.10 Freedoms and Honours**

**3.10.1** There are two types of freedom – hereditary freedoms and honorary freedoms.

**3.10.2** 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. Freemen were mostly tradesmen or craftsmen belonging to one of the guilds. In Carlisle, four Guilds remain and continue to hold an annual meeting in the city's Guildhall on Ascension Day. The tradition of admission to the Ancient Freeman Rolls is maintained by Carlisle City Council. It is proposed that this should be continued by the Charter Trustees for Carlisle once established.

**3.10.3** Honorary Freedom (and honorary Alderman) is different from the status of hereditary 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.

**3.10.4** The Local Government (Structural Changes) (Transitional Arrangements) No2 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.

**3.10.5** It is proposed that honorary freedoms and aldermen are awarded going forward by the existing town councils and by the new Charter Trustees in Carlisle.

**3.10.6** Similarly, the title of honorary recorder is awarded by a borough council to a judge who sits at the Crown Court within their domain. It is intended to mark the link between the administration and judiciary. Conventionally the title is bestowed upon the resident judge, who is appointed by the Lord Chief Justice to be the most senior circuit judge sitting at that Crown Court. Under the power derived from section 54 of the Courts Act 1971, preserved on previous local government reorganisations by sections 245 and 246 of the

Local Government Act 1972, Carlisle City Council has continued the practice of appointing an honorary recorder.

**3.10.7** It is proposed that the appointment of honorary recorder will be carried out by the Charter Trustees in Carlisle.

### **3.11 Armorial Bearings**

**3.11.1** Carlisle City Council is authorised by the Local Authorities (Armorial Bearings) Order 1974 to hold armorial bearings, part of which is the City Crest. Carlisle is the only one of the outgoing councils named in the 1974 Order and is likely to lose its Armorial Bearings if no action is taken to preserve the same.

**3.11.2** It is possible to transfer Armorial Bearings to another named authority upon submission of a petition and payment of a fee. Enquiries have been made of the College of Arms as to the procedure for doing so and the level of fee and a report will be taken to Carlisle City Council, as the principal authority, seeking authority for officers to take the steps to transfer the Armorial Bearings to either the Charter Trustees or the Cumberland Council.

### **3.12 Ceremonial and Historic Property, Civic Regalia and Charters**

**3.12.1** 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, Mayor's jewel with coat of arms, maces, swords, plate, goblet and books. It also includes Royal Charters.

**3.12.2** 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. Examples include an arrangement with the Beacon Museum in Copeland and Tullie House in Carlisle. 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. Recommendations will be brought forward once the aforementioned research and investigation is complete.

**3.12.3** Carlisle holds two Royal Charters, granting rights in respect of fishing and the holding of a market. Civil servants at DLUHC have been asked to ensure that the Consequential Matters Order specifically preserves these rights and it is intended that the rights will, therefore, transfer to the new Cumberland Council.

### **3.13 Town Twinning**

**3.13.1** The table below sets out the various twinning arrangements operated throughout the county. Although several towns and boroughs operate twinning arrangements, it is only Carlisle City Council which is set to be abolished following reorganisation and, accordingly, thought needs to be given as to how its twinning arrangements with Slupsk and Flensburg will operate going forward.

<b>Town</b>	<b>Twinned with</b>	<b>Administered by</b>
Carlisle	Flensburg, Germany Slupsk, Poland	Carlisle City Council
Brampton	Marmagne, Cher and Berry-Bouy (as a single town), France	Brampton & District Town Twinning Association
Cockermouth	Marvejols, France	Cockermouth Town Council
Workington	Selm, Germany Val de Reuil, France	Workington Town Council

**3.13.2** 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 Principal Councils 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, as the report makes clear, it has been agreed that the Consequential Matters Order will include provisions to establish Charter Trustees and preserve ancient charter rights.

**5.4 Information Governance:**

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

**5.5 Health And Sustainability Impact:**

**5.5.1** There are no direct implications associated with this report.

**5.6 Equality And Diversity Impact:**

**5.6.1** There are no direct implications associated with this report.

**6.0 RISKS:**

**6.1** 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.



## **7.0 CONCLUSION:**

**7.1** 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.

### **Report Authors**

**Kate Turner, Acting Head of Legal and Democratic Services (Deputy Monitoring Officer), Cumbria County Council and Clare Liddle, Deputy Monitoring Officer, Head of Legal and Democratic Services, Carlisle City Council**

### **Appendices**

No Appendices.