

ABINGDON-ON-THAMES TOWN COUNCIL
WEDNESDAY 28 APRIL 2021
AGENDA ITEM 17: REPORT OF THE TOWN CLERK
DEMOCRATIC MATTERS

This report considers:

- 1) The Governance Review;
- 2) The calendar of meetings for 2021/22;
- 3) Council meetings after 7 May 2021;
- 4) Representation on outside bodies and trustees;
- 5) Radley Lakes Trust Masterplan.

1. Governance Review

- 1.1. A governance review is currently being undertaken by LGRC but has been delayed. The Forward Plan provides for the review to be undertaken during the quarter ending 31 March 2021 but on undertaking consultation and having received further representations LGRC required further direction from the regarding a number of matters and in particular the committee structure. Democratic Representation and Management is within the terms of reference of the Finance & General Purposes Committee and therefore a presentation was made to that committee on 30 March 2021 outlining the headline options and seeking guidance. At the F&GP Committee members considered that these matters required input from the full Council and therefore asked for a further review meeting to take place.
- 1.2. It has not proved possible to schedule this briefing ahead of the Council meeting and it will now take place in May.
- 1.3. LGRC wish to present to the Council a full report with a fully worked up recommended option for the Council's governance, including all relevant documents such as schemes of delegation and terms of reference. LGRC's terms of reference include a requirement to:

"Propose a scheme of delegations which:
 - a. Identifies core powers retained by the Town Council and the general power of recall.
 - b. Propose a coherent structure of committees and sub committees together with appropriate delegated and recall powers
 - c. Propose delegations to the Clerk and powers to delegate as appropriate to other staff, including review requirements and recall powers."

Whilst it is understood that some members may have preferred two full options this was not part of the brief and this would incur considerable additional time and costs. Therefore after the next briefing there will need to be sufficient guidance given to LGRC for them to prepare the final report and documentation.

- 1.4. The additional briefing and associated work will require additional work by LGRC and they have requested an additional fee of £500 to cover the additional briefing and associated work, noting that the briefing to the Finance and General Purposes Committee was not charged for.
- 1.5. Following the briefing and feedback from members, LGRC will then be able to produce their final report with a view to necessary changes to Standing Orders being tabled at a Council meeting in May 2021 and resolved in June 2021.
- 1.6. The future governance structure will be a matter for decision by Members. However your officers have considered their response to the current review. Our view is that the current committee system needs to be re-organised. The committee system dates back a number of years and does not assist in delivering the council's four key objectives as effectively as it might:
 - i. To respond effectively and speedily to the climate emergency.
 - ii. To develop a resilient, sustainable town which will provide a home for residents now and in the future.
 - iii. To manage the Council's assets efficiently and effectively to meet for the needs of the community now and in the future.
 - iv. To work with community partners to support those who are vulnerable and in need and to create opportunities to increase social inclusivity.

With the council focussing on these objectives we find an increasing amount of business that does not neatly fit in to our current division of responsibilities. As a result of this some matters are referred from one committee to another and partly as a result, our meetings are quite protracted and decisions are delayed and not always clear. The committee system should now mirror and concentrate on the council's objectives so they can be delivered and there should be a clear route for all business through the council, only being referred on to council if the committee does not have the delegation and not normally to another committee or group.

- 1.7. We feel that the role of members will be strengthened if the committees are re-organised to reflect our objectives as they will concentrate on the important outcomes for the council whilst delegating routine matters to the officers, releasing time for all. However contact with the officers and working closely together would continue as the council benefits from the work of members sometimes in areas where in a larger authority there would be an officer resource and it is a welcome part of the organisational culture.

- 1.8. There are concerns regarding whether the committee system would work for future councils. A future council may have different objectives and so if they felt that it was not fit for their purposes then they could amend the system it so that it was , in the same way that this council could.

- 1.9. **Recommended:**

That an additional fee of £500 be approved to LGRC in order to complete the Governance Review to that a briefing is held in May with a view to adoption during the next cycle of meetings, with amendments to Standing Orders tabled at the Council meeting in May and approved at the Council meeting in June.

2. **Calendar of Meetings**

- 2.1. A calendar of meetings has been prepared for the council year 2021/22 based on the current committee structure. This has been undertaken at the request of the F&GP Committee so that dates for council and committee meetings are in the diary and can be reserved by members and officers so they can plan their diaries accordingly.
- 2.2. The calendar has been circulated to members and any comments made / suggestions have been incorporated into the version presented this evening.
- 2.3. **Recommended** that the calendar of meetings for 2021/22 be approved.

3. **Meetings after 7 May 2021**

- 3.1. Members will be aware of the debate in relation to meetings after 7 May 2021 and this is considered in some detail in previous reports to members and also to the Management Team. For brevity I am not repeating that information.
- 3.2. This week the High Court considered whether virtual meetings could continue under the local government act 1972. A judgement is awaited, it is hoped before the end of April.
- 3.3. In considering how we proceed with meetings the council will need to consider the current situation in relation to the pandemic and restrictions in place as a result. However, an overriding consideration beyond Covid and looking forward should be this council's key objectives, and in this regard allowing participation virtually has proved to be greener, more efficient and more inclusive than requiring physical attendance. The downside is that our inability to be able to meet physically has implications for working cohesivity and mental health.
- 3.4. Whilst it is very poor that we have been placed in the position which we have been are in this position we need to plan for the various possibilities. Locally similar size councils have taken decisions ranging from re-arranging their annual meeting/ mayor making so that it is prior to 7 May and then reverting to a clerk delegation to re-introducing face-to-

face meetings from 7 May for all committees and council, with no live-streaming or virtual elements. For this Council, pending the High Court judgement, I set out options below depending on whether we are allowed to make decisions in virtual meetings.

In considering this matter a survey of members and officers who attend meetings has been undertaken. Members may also be interested in the latest Covid-19 infection statistics and comparisons back to September 2020. These are shown in Appendix 1. This shows no cause for complacency, the latest Vale figures (19.9 per 100K) being almost double compared with those we had to hand when we cancelled the 2020 autumn fairs (11.0 per 100K on 15/9/20).

Options should virtual meetings not be allowed.

- 3.5 Should the High Court challenge fail then the council will be obliged to have meetings in person in order to make decisions.

In my view the council may continue to have meetings which are virtual as long as they are in an advisory and not a decision-making capacity. From this springs two options:

- 3.5.1 Delegation of all council decision-making to the Town Clerk, as the council's chief executive officer, in consultation with members. This could work through the existing committee system (as advisory bodies) with meetings taking place virtually and making recommendations which would then be considered and approved by the town clerk. This would mean no in-person meetings would be required. If the public health position improved then the Town Clerk could consult on a move to re-instate physical meetings with the ability to participate virtually (hybrid).

- 3.5.2 The council could alternatively delegate authority to an urgency committee to consist of five members, serviced by one officer which I anticipate would usually be the Town Clerk. Again the committees would again meet as usual, in an advisory capacity, and their recommendations would then be placed before an urgency committee. This committee would make decisions on behalf of the council and would be expected to approve the recommendations coming forward, although could not be required to do so. The urgency committee would be required to meet in person and this would be subject to full risk assessment. This would enable the council to adhere to the rule of 6 but in these circumstances the risk assessment is likely to put a strict time limit on the length of meetings. The committee would simply be there to approve the recommendations. The public would need to be able to access the meetings to observe proceedings and contribute during the public participation but it may be necessary to put strict limits per the risk assessment. I would not recommend at this stage that these meetings be physically open to the public.

If the public health position deteriorated then the urgency committee could move way from physical meetings and delegate decisions to the Town Clerk.

If the public health position improved then the urgency committee could move to allow hybrid meetings (in-person meetings with the ability to participate virtually too).

Option should virtual meetings be permitted

- 3.7 Should virtual meetings be allowed to continue for the purposes of decision-making then I recommend that the current procedures continue until such time as the council considers that the covid risks have reduced enough to allow physical meetings.

Hybrid meetings in the future

- 3.8 If decisions can be made virtually then we could commence hybrid meetings which would allow those who wish to attend in person to do so and those who wish to continue to attend virtually also to do so. However it is clear through the survey with members and officers that that whilst some would be prepared to attend a physical meeting if absolutely required, in order for the council to continue to operate, the majority of people would prefer to only meet in person at stage 3 or stage 4 or when everyone has been vaccinated or when the pandemic has subsided i.e. not yet. Most committee meetings last between 1 and 3 hours and a significant number of members and staff would not wish to be in attendance at a physical meeting for that period of time, so it would probably not be worth (and not prudent) to organise such meetings yet.
- 3.8.1 However coming through the survey is a desire that the council should enter into hybrid meetings , subject to my qualification above, as this would help meet its key objectives in relation to climate change, efficient working and inclusivity. Such meetings would also allow us to begin to normalise matters, increasing cohesivity and improving well-being, the latter being part of our objectives.

I would suggest that these hybrid meetings be introduced by the council at a later stage in the pandemic.

Risk assessment

- 3.9 As part of the risk assessment the following controls will be amongst those considered: room ventilation (including carbon dioxide monitors), wear of face coverings/ masks, hand sanitisation, access control, length of meetings, social distancing, layout of seating, progress on vaccination and testing.
- 3.10 I would not correlate our key actions in terms of re-opening meetings to physical attendance with the steps announced in the [Spring 2021 Covid response](#) but instead make our own judgments informed by local and national data and information.

Mayor-Making and the Annual Meeting

- 3.11 In consultation with the Mayor/ Deputy Mayor it is considered that a socially distanced and short ceremony without speeches should take place to elect the Mayor, Deputy Mayor and appoint council committees. It would be strictly essential business.

- 3.11.1 If virtual decision-making meetings are not permitted then we would require 7 members to be quorate and the Town Clerk would also attend. This would take place in the Council Chamber as is large and has good ventilation (with the windows open!). Other members and the public could view the meeting virtually.
- 3.11.2 If virtual decision-making meetings are permitted then again we feel that 7 members should attend to guarantee a quorum should there be a Wi-Fi problem but all other members could formally attend online.

Recommendations

- 3.11 The choices are outlined above and draft recommendations to reflect these will be circulated separately. These would need to include a provision to allow for exemption from the six-month rule should we choose a path which limits physical meetings.

4. Representations on Outside Bodies and Councillors as Trustees

- 4.1 The council appoints members to serve on a number of outside bodies. Many of these appointments are historic and most of those involve a member serving on a management committee rather than being appointed as a trustee.
- 4.2 Previously (November 2011, see Appendix 2) council has presumed against taking on any more trusteeships although this advice was qualified to the extent that this was advisory. Note also that the rationale not to accept trusteeship roles has changed as under the current Code of Conduct prejudicial interests no longer exist and trustees no longer have to automatically leave a meeting although they need to consider their personal interest and whether they have a conflict of interest.
- 4.3 In the interim governance review it is stated “representation of the Council on outside bodies should only be where it meets Council objectives and has a clear purpose. Therefore, members should only represent the Council on an outside organisation where there is a clear agreed remit and benefit to the Council in doing so. Serving as a trustee should generally be beyond the scope of Councillor involvement.”
- 4.4 At present no review of current membership of outside bodies is proposed and it is not resourced in the Forward Plan. However we have a couple of outside bodies who have indicated that they wish the council to appoint a trustee.

Radley Lakes Trust

- 4.5 On 24 November 2020 the council was requested to appoint a trustee to the Radley Lakes Trust. In January 2021 the matter of appointment to outside bodies was referred to the Governance Review, the conclusion on this matter now detailed above (paragraph 4.3). The Trust were advised that this would result in a delay to consideration but that we should be in a position to determine matters in March 2021.

- 4.6 The text of the application is at appendix 3. Members are requested to consider whether they wish to appoint a trustee. Information on the role is included in the council member's SharePoint. There is also further information available in the June 2020 [Masterplan](#) (draft for consultation).

North-East Abingdon Community Association

- 4.7 It is also understood that there has been a review of governance at the [North East Abingdon Community Association](#). A new charitable incorporated organisation (CIO) was established on 23 February 2021. The council has appointed a representative(s) to the governing body for a number of years but we now understand that the Association request that the council's representative become a trustee. A formal approach has not been made to me but the council may wish to consider whether they would wish to appoint a trustee.

5 Radley Lakes Trust Masterplan

- 5.1 The matter of trusteeship is considered at 4.5 – 4.6. Members should have received the latest update from the Trust (forwarded 15 April 2021) in which it is stated: "The revised masterplan is about to be put to Radley Parish Council and the Radley Lakes Trust for endorsement. We hope that Abingdon-on-Thames Town Council will also add their endorsement. It will then be launched in May and we will be in touch later about that."
- 5.2 The latest version the Masterplan is in the councillor's SharePoint under this meeting's documents and Members are requested to consider whether to endorse the Masterplan as requested and for the Mayor to sign the foreword.

Nigel Warner

Town Clerk
23 April 2021

APPENDIX 1

The following figures relate to the number of positive Covid-19 test results in the previous seven-day period, per 100,000 population, the Vale of the White Horse District. They show that rates are at similar levels to September 2020 but community transmission remains active.

18 April 2021	=	19.9	Latest figure as at the time of writing
14 April 2021	=	18.4	
6 April 2021	=	15.4	Lowest figure this year
21 March 2021	=	41.9	
8 March 2021	=	34.6	
4 January 2021	=	485.3	Peak of second wave
29 November 2020	=	56.6	Towards end of second lockdown
13 November 2020	=	140.4	Early in the second lockdown
5 October 2020	=	51.0	The rate at the time we changed the usual Remembrance Day arrangements
15 September 2020	=	11.0	The rate at the time the Council cancelled the 2020 Michaelmas and Runaway Fairs

Areas of concern remain:

- (i) the real rate is considerably higher;
- (ii) impact of easing of lockdown at time of emerging variants;
- (iii) stubborn base numbers.

APPENDIX 2

Extract from Finance and General Purposes Committee minutes 15 November 2011 subsequently resolved by the Town Council:

1. Representation on outside bodies

The report of the Town Clerk in relation to the above, was received and considered. This included draft advice to Members as shown in italics, below:

The Town Council appoints councillors as representatives to outside bodies when requested to do so. There is a developing trend of some bodies acquiring charitable status, in which case, members of its management committee become registered trustees of the charity. Trusteeships, along with directorships, carry specific responsibilities under the law. In particular:

- 1) *Trustees/directors are required to act solely in the interests of the organisation of which they are a board member.*
- 2) *Trustees/directors are required to vote on decisions taken by the board and, even if they voted against a decision or were absent when the vote was taken, they are required to abide by and support the decisions of the board.*
- 3) *Trustees and directors incur certain responsibilities and liabilities for the management of the organisation.*

This creates a potential prejudicial interest for councillors, which would exclude them from all discussion and voting in Council, or in Council Committees, on matters concerning an outside body to which they are appointed by the Council and are, by virtue of that appointment, a trustee or a director.

As elected members of a legally constituted public authority, councillors are assumed to act in the best overall interest of all residents within the Abingdon Town Council's area of administration. Where a councillor has a prejudicial interest, the code of conduct for councillors requires that councillor to withdraw completely from all participation in debate or decision making on the matter in question.

The advice to councillors is therefore to decline offers to become trustees or directors of outside bodies to which they are appointed by the Council. The reason for this is that the Council's purposes in appointing a representative are, among other reasons:

- a) *To explain and support the Council's policies to outside bodies*
- b) *To advise the outside body on Council matters and procedures.*
- c) *To advise the Council, where required, on issues affecting outside bodies.*

Councillors cannot fulfil these requirements if they are a trustee or a director because of:

- a) *The conflict of loyalty that this creates.*
- b) *The code of conduct issues that would arise from any participation in decision making as a director/trustee*

Councillors should advise their outside bodies that they are not members of the management committee, but representatives of the Abingdon Town Council and are there in an advisory

capacity. If present at meetings of the management committee, they should be recorded in the minutes of the meeting as being “in attendance as representatives of the Abingdon Town Council”. Councillors must not participate in any vote on any decision taken by the management committee. If the board does not wish an agenda item to be communicated outside the organisation, the councillor should withdraw and not participate in, or be able to overhear any discussion, concerning the debate on any such item. Outside bodies should be advised to establish a separate, confidential agenda to deal with such issues.

The exceptions to this advice on accepting a trusteeship are:

- a) The Christ’s Hospital, for which special status is assigned to Council appointees. The link between the Council and Christ’s Hospital is very old and may well be constitutional, possibly dating back to the original charter of the Council. Nevertheless, the Code of Conduct rules still apply regarding any conflict of interest.*
- b) Organisations such as Choose Abingdon Partnership (ChAPs) where the appointee is placed on the board to safeguard the Council’s interest by virtue of the fact that the Council funds, wholly or partially, that body.*

In a nutshell; an appointed councillor can best serve the outside body if they are not made a trustee or a director, because of the code of conduct rules. When approached to accept a trusteeship or directorship of an outside body councillors should explain this to the organisation.

Members noted the issues in relation to representatives becoming trustees of outside bodies and the legal implications of this. The Chairman stated that becoming a trustee could lead to a personal and prejudicial interest having to be declared at Council meetings due to potential conflicts of interest. There was a discussion on whether the advice should be advisory or obligatory.

It was **recommended** that the above advice to Members regarding representation on outside bodies be adopted and take the status of advice.

APPENDIX 3: TEXT OF E-MAIL FROM RICHARD DUDDING OF THE RADLEY LAKES TRUST TO THE TOWN CLERK 24 NOVEMBER 2020

Nigel

The Radley Lakes Trust has now been registered by the Charity Commission – a major step forward and achieved more quickly than expected. The constitution is attached.

The majority of Lakes visitors are Abingdon residents, so the Trust's link with the Town Council is of high importance. Prior to registration we have operated through an 'Informal Planning Group' on which Cllr Lorraine Oates sat. With registration we now need to move to more formal appointment of trustees.

The trust has been initially registered with five trustees – see clause 9. These were all members of the 'Informal Planning Group'. Under clause 10, the Town Council, Radley Parish Council and Friends of Radley Lakes each have the right to nominate one trustee. Roger Thomas, already a trustee, will be the FRL nominee. I am separately in contact with Radley Parish Council to seek their nomination. We also envisage a small number of further appointments (over and above the three nominees) and will publicise the opportunity and the skills and experience being looked for. Broadly these are in the attached note.

The purpose of this email is to ask who the Town Council wish to nominate. In considering this, the second attachment might be helpful. But If you, or any potential nominee, would like any more information do please let me know.