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GOVERNANCE WORKING PARTY

6 January 2020 at 6.30 pm

Present: Councillors Oppler (Chairman), Ms Thurston (Vice-Chairman), Bennett, B Blanchard-Cooper (Substituting for Mrs Erskine), Bower, Charles, Coster (Substituting for Dixon), Mrs Daniells, Mrs Gregory, Gunner and Mrs Pendleton.

Councillors Bicknell, Dendle and Edwards were also present during the meeting.

24. WELCOME

Members and Officers were welcomed to the fourth and final meeting of the Governance Working Party. The Chairman extended New Year wishes to those present and thanked Councillors and Officers for their valuable contributions made.

25. APOLOGIES FOR ABSENCE

Apologies for Absence had been received from Councillors Dixon and Mrs Erskine.

26. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

27. MINUTES

The Minutes of the meeting of the Governance Working Party held on 3 December 2019 were approved by the Working Party as a correct record and were signed by the Chairman.

28. HYBRID OPTION FOR A GOVERNANCE STRUCTURE

The Group Head of Council Advice & Monitoring Officer was invited to introduce this item. She explained that this was the first of two reports that the Working Party had requested be brought to this meeting setting out how the option for a hybrid structure of governance could work within the Council building on the arrangements operating in Tunbridge Wells and Tonbridge & Malling Borough Councils.

The Chairman invited questions from Members.

A point was made that the order of the agenda should be changed to allow Members to firstly debate the recommendation from the Special meeting of the Audit & Governance Committee held on 19 December 2019 [Item 7]. In response, the Chairman confirmed that the order of the agenda would be considered as published.

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In the absence of any further discussion, the Working Party

RESOLVED

That the report be noted.

29. ANALYSIS OF GOVERNANCE OPTIONS

The Group Head of Council Advice & Monitoring Officer introduced this item confirming that this report provided an analysis of the advantages and disadvantages in terms of each of the three options currently being considered for a governance structure, together with identifiable cost implications. This report had also been provided as further background information to the Special Meeting of the Audit & Governance Committee held on 19 December 2019.

The observations made by Members in considering the report have been summarised below:

- Concerns were again raised over budget costings in terms of what sort of variance could be anticipated in managing each of the options. It was outlined that the cost analysis provided aimed to identify the potential and hidden costs of each of the options. The Committee Structure at Appendix B detailed the highest cost implications and needed to be taken with a degree of caution. They contained quantifiable costs covering staffing, increased building security, public notices and documentation, and the outcome of a review of the Members Allowances Scheme. There were unquantifiable costs relating to printing and time off in lieu as a result of Officers attending a greater number of meetings
- The costs provided showed a marked difference between the Committee and Hybrid structures yet at previous meetings different views had been expressed. The Chief Executive confirmed that back in November it had been felt that the Hybrid option would have been more expensive. However, having undertaken consultation with Tunbridge and Tonbridge & Malling Borough Councils, revised figures had been provided.
- Looking at the advantages and disadvantages of a Committee Structure, the main area of concern was that this move could mean slower decision making and inefficiencies. Could it be explained what these inefficiencies might look like? It was outlined that this could not be costed but there was a risk which might involve the need to add some delegation to Officers to cover time dependent business such as external funding opportunities. The differences between the current process in place versus a Committee structure in terms of the length of decision making were explained.

- Would this mean that the Council would need to adopt a revised Risk Register? It was explained that the Council had a Corporate Risk Register. Any change to the Council's governance structure would require the Corporate Risk Group to meet to consider any issues raised or changes required.

The Chief Executive outlined that he had worked in Councils that had adopted both of the governance structures being examined. Committee structures were slower but involved back benchers more. He believed that all the options could work but that it was vital for Councillors to be aware of all the advantages and disadvantages as presented to them. Looking at Officer delegation levels, changing these could result in less or more decisions being reported to Committees and could make decision making even slower. The review to date had been working on the assumption that delegation levels would not change as this would require further in-depth work and changes to be made to the Constitution.

The Chairman asked the Working Party if it would allow for those Members observing the meeting to speak – they were Councillors Bicknell, Dendle and Edwards. Comments made were:

- In terms of looking at a Committee structure and financial implications, would one FTE Committee Manager be enough? The Group Head of Council Advice & Monitoring Officer confirmed that she believed from the assessment of the likely number of meetings that this would be appropriate. The Chief Executive added that it would be a case of working with a new structure first to assess and see if the proposed additional staffing was adequate and then adapting as required if this was proved to not be the case.
- Caution was expressed with adopting a Committee Structure in terms of the level of detail that Committees should be involved in.

The Working Party then

RESOLVED

That the content of the report be noted.

30. FEEDBACK FROM THE AUDIT & GOVERNANCE COMMITTEE - 19 DECEMBER 2019

The minutes from the Special Meeting of the Audit & Governance Committee held on 19 December 2019 were circulated to the meeting, these had also been uploaded to the Council's webpages earlier in the day.

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The Chief Executive outlined that the recommendation from that Committee was clear in that “The Working Party’s proposals are not supported at this stage and any decision on a change to governance be deferred to enable a Members’ Seminar to be held with more information provided on the options including evidence from a Council operating a Hybrid model”.

The Chairman outlined that it was for this Working Party to discuss this recommendation and to decide whether it supported it or not and whether it wished this to be forwarded to Full Council on 15 January 2020.

The views of the Working Party have been outlined below:

- The recommendation clearly confirmed that Councillors wished to receive more information before making a decision.
- Other Members of the Working Party argued that Councillors had been provided with ample information and that Officers had worked hard in providing as many aspects as possible on various alternatives.
- More knowledge was needed in terms of how either a Committee or Hybrid system could work before making a decision. There were still gaps in terms of how both systems could physically work when looking at the reality of decision making and so a Members’ Seminar was needed.
- The move to a Committee structure would be the right move for the community.
- Whatever system might be adopted it would require Members to work together to make it work. The proposal to implement a new structure in May 2020 was too ambitious and more consultation work should be conducted with Members prior to implementation. This did not prevent the decision from being made at Full Council next week.
- Members needed to be better informed about the options going forward. There was need for a seminar for where all options could be discussed with representatives from other authorities being in attendance to be questioned. To do otherwise would be a disservice to the District.
- Concern was expressed over the information that Members had and over the fact that there had been no discussion over the size of Committees or what decisions they would be making.
- The issue was over the process being followed not the outcome – a Members’ Seminar was a minimal requirement in terms of working together. It was not a good idea for the Council to make this level of constitutional change without the clear consensus from all Political Groups. To push the decision forward without a Seminar would be creating a system that would not be open or transparent when the vast majority of Councillors had not been consulted. The Audit & Governance Committee had confirmed this as not being a deep and thorough process.
- Councillors were feeling confused and under pressure to agree something of this importance and needed more time to think through the options and process information.

The Chairman then proposed putting the recommendation from the Audit & Governance Committee to the vote. A request was received that the voting on this recommendation be recorded.

On putting the recommendation to the vote, it was declared LOST.

Those voting for the recommendation were Councillors Bower, Charles, Mrs Daniells, Gunner and Mrs Pendleton (5). Those voting against were Councillors Bennett, B Blanchard-Cooper, Coster, Mrs Gregory, Oppler and Ms Thurston (6).

31. CONCLUDING THE REVIEW OF GOVERNANCE ARRANGEMENTS

The Working Party received a report from the Chief Executive reminding Members of the deadline in place to conclude this review, this had been agreed at Full Council on 18 September 2019 that this would be Full Council on 15 January 2020.

The report before Members reminded them of the information that had reviewed to date; it set out the key issues they needed to consider in making any final recommendations from this review.

In looking at what the Working Party might wish to agree in recommending to Full Council, Councillor Bennet referred to discussion on the last item and that he wished to make a formal proposal. The proposal is set out below and was circulated to the meeting. Councillor Bennett confirmed that it had been forwarded to Officers in advance of the meeting, including the Council's Legal Department, to ensure that it was appropriate.

- (1) In accordance with Section 9KC, Paragraph (1) of the Local Government Act 2000 (as amended by the Localism Act 2011) the Council resolves to cease operating a Leader and Cabinet form of governance and to operate a Committee system form of governance;
- (2) In accordance with Section 9L, Paragraph (4) (b) of the Local Government Act 2000 (as amended by the Localism Act 2011) the effective date for the implementation of this change to the form of governance will be the annual Council Meeting to be held on 19 May 2021;
- (3) The Committee system form of governance to be operated will be based on the Senior Management Team proposal agreed by the Governance Working Party on 3 December 2019, as attached to the Minutes of this meeting;
- (4) The Chief Executive, in consultation with the Chairman of the Governance Working Party, be authorised to prepare and publish the document setting out the provisions of the new governance arrangements required in accordance with Section 9KC, Paragraph (2) of the Local Government Act 2000 (as amended by the Localism Act 2011) as soon as practicable after passing this resolution;

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(5) The Constitution Working Party be convened to work through the necessary changes to the Council's Constitution and report back to Full Council with the aim of this work being concluded by January 2021;

(6) The Independent Remuneration Panel be convened to make recommendations for future Special Responsibility Allowances under the Members' Allowances Scheme in light of the changes to governance arrangements and report back to the Audit & Governance Committee by November 2020;

(7) The full budgetary implication to be worked up and included in the budget for 2021/22; and

(8) All necessary training be given to staff and Councillors to ensure a smooth transition to the Committee System.

Councillor Coster seconded this proposal. The Chairman then invited debate on the proposal.

The varying comments made by the Working Party and other Councillors observing the meeting have been summarised below:

- Why had the implementation date been delayed to 19 May 2021? In response, some Councillors recognised that the Council needed time to adopt the many changes required and that staffing levels needed to be corrected and the Constitution rewritten. The extended implementation date would allow this to happen. Councillors suggested that this proposal took on board the concerns expressed by the Audit & Governance Committee.
- Was the recommendation valid? The Group Head of Council Advice & Monitoring Officer confirmed that she had provided her opinion and had obtained advice from the Legal Services Manager in terms of how this applied to the Law. The Law required an effective date to be confirmed, this had to be either the first annual meeting of the Council following the date the decision had been made or a later annual meeting specified in the resolution.
- There was an element of confusion about the adoption date – would this be from 15 January 2020, if approved, or from 19 May 2021? A review of the legislation was that this would be from 15 January 2020, though it was outlined that it would be necessary to obtain further legal advice to support this ahead of next week's Full Council meeting.
- The Chairman outlined his view that the whole of this review process had been sufficiently robust, and he thanked those Officers involved for their input and hard work in providing the documentation and advice supplied. He confirmed that as a Group, the Liberal Democrats had held three Group Meetings dedicated to this issue and that he had also met with the Leader of the Conservative Group, Councillor Chapman, who had been supportive of the process. The views of other Groups had been obtained and listened to. The

final decision would be made by Full Council giving all Councillors the opportunity to provide input to the final decision made.

- Concern was expressed that the information supplied to Members not sitting on this Working Party was insufficient. It would be very difficult for them to be able to absorb the wealth of information supplied and it was felt that more research on the approaches taken in other Councils should be conducted via a Seminar for all Members of the Council before taking a final decision.
- Concerns were again expressed about the budget costings provided. It was accepted that at this stage that only a 'best guess' could be provided.
- Had the review process been sufficiently clear about what the Council was trying to achieve?
- Why couldn't the decision be delayed to March 2020 – to allow for a Members' Seminar to take place and for Councillors to be armed with more facts and information?
- The delayed implementation date allowed for a sound transition and time for Officers to undertake the work required ensuring that the changes required would be correct and in place.

Following further debate, Councillor Gunner confirmed that he wished to make an amendment to Councillor Bennett's proposal. This amendment was to Paragraph (2) to read as follows [additions are shown in **bold** with deletions shown using ~~strikethrough~~:

(2) In accordance with Section 9L, Paragraph (4) (b) of the Local Government Act 2000 (as amended by the Localism Act 2011) the effective date for the implementation of this change to the form of governance will be the annual Council Meeting to be held on ~~19 May 2021~~; **20 May 2020**;

This amendment was seconded by Councillor Charles.

On the amendment being put to the vote it was declared LOST.

Returning Members to the substantive proposal, the Chairman outlined that it would allow the transition over to a Committee system to be properly planned giving time for staff and Councillors to be trained.

The Chairman confirmed that he would now put the proposal to the vote. A request was received that the voting on the proposal be recorded.

On putting the proposal to the vote, it was declared CARRIED.

Those voting for the proposal were Councillors Bennett, b Blanchard-Cooper, Coster, Mrs Gregory, Oppler and Ms Thurston (6). Those voting against were Councillors Bower, Charles, Mrs Daniells, Gunner and Mrs Pendleton (5).

(The meeting concluded at 8.20 pm)

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