

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

8 August 2018

To: MEMBERS OF THE OVERVIEW AND SCRUTINY COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Overview and Scrutiny Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Thursday, 16th August, 2018 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

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MEMBERSHIP

Cllr A K Sullivan (Chairman)

Cllr Mrs A S Oakley (Vice-Chairman) and Cllr F G Tombolis (Vice-Chairman)

Cllr Mrs J A Anderson

Cllr M C Base

Cllr P F Bolt

Cllr J L Botten

Cllr R W Dalton

Cllr S R J Jessel

Cllr D Keers

Cllr Mrs F A Kemp

Cllr Mrs S L Luck

Cllr M R Rhodes

Cllr Miss S O Shrubsole

Cllr Ms S V Spence

Cllr M Taylor

Cllr Miss G E Thomas

Cllr T C Walker

Mr P J Drury

Mr D Still

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Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

Thursday, 21st June, 2018

Present: Cllr A K Sullivan (Chairman), Cllr Mrs A S Oakley (Vice-Chairman), Cllr F G Tombolis (Vice-Chairman), Cllr Mrs J A Anderson, Cllr M C Base, Cllr P F Bolt, Cllr J L Botten, Cllr D Keers, Cllr Mrs F A Kemp, Cllr Mrs S L Luck, Cllr M R Rhodes, Cllr Miss S O Shrubsole, Cllr Ms S V Spence, Cllr M Taylor, Cllr Miss G E Thomas, Cllr T C Walker and Mr D Still

Councillors O C Baldock, M A Coffin, D J Cure, Mrs M F Heslop, N J Heslop and B W Walker were also present pursuant to Council Procedure Rule No 15.21.

PART 1 - PUBLIC

OS 18/19 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct. However, in the interest of transparency, Councillor Ms Spence advised that she was a member of the Tonbridge Town Team and Councillor Coffin advised that he provided fireworks to events held at Tonbridge Castle.

OS 18/20 MINUTES

RESOLVED: That the Minutes of the meeting of the Overview and Scrutiny Committee held on 24 May 2018 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE CABINET

OS 18/21 REVIEW OF YOUTH ENGAGEMENT, SPORTS AND EVENTS DEVELOPMENT

The report of the Director of Street Scene, Leisure and Technical Services presented a review of the Council's approach to youth engagement, sports and events development which focused on the costs and benefits of these three discretionary service areas, suggested a number of improvements for future service delivery and identified potential savings which could contribute to the Council's Savings and Transformation Strategy. The Committee was reminded of the scope of the review which had included an assessment of whether the activities funded by allocated revenue budgets continued to provide value for money, explored partnership opportunities and sought assurance that

there was no duplication of service, demonstrated links to the Council's key priorities and examined the potential scope to generate external funding to help support services and reduce overall costs. In order to assist Members in the evaluation of each service area Annexes 1 to 3 of the report outlined the purpose of each service, current delivery arrangements, partnership involvement and the allocation of resources. An assessment of value for money, associated risks, suggested way forward and potential associated savings were also provided. A report from the Town Team on the management of events in Tonbridge, details of event management, youth and play development and sports development expenditure 2017/18, comments received from the Tonbridge and Malling Community Safety Partnership and a list of schools involved in the Youth Forum were circulated at the meeting.

During consideration of the report a number of additional issues were raised and it was suggested that Cabinet be invited to consider the following:-

- (1) that additional income generating opportunities be explored to include the potential to re-charge licensing costs to organisers of commercial events and the potential introduction of an administration fee for community events on Council land dependent on, and related to, the scale;
- (2) that the proposal put forward by the Tonbridge Town Team to establish a joint working group to help co-ordinate and develop events be investigated;
- (3) that a further review of the costs and benefits of marketing and publicity activities across all Council services be undertaken by the Overview and Scrutiny Committee with a view to reducing such costs where possible;
- (4) that wider use of social media to promote youth activities be encouraged;
- (5) that a wider participation of schools across the Borough in the Youth Forum be promoted via the Enterprise Advisor Network; and
- (6) that a report be made to the Communities and Housing Advisory Board in one year's time to update on progress made in relation to the recommendations arising from the Review of Youth Engagement, Sports and Events Development.

The Committee concluded that the services supported the Council's key priorities, offered value for money, attracted investment into the Borough and, in addition to a direct level of income, provided broader economic, health and social benefits. It was, therefore

RECOMMENDED: That

- (1) the contribution made by the Council's delivery of Youth Engagement, Sports and Events Services to the achievement of its strategic objectives be acknowledged;
- (2) the suggested changes to the existing delivery arrangements, as outlined in the report and at Annexes 1 to 3, be agreed; and
- (3) the associated savings of £14,940 to the Council's Annual Revenue Budget be included and reflected in the 2018/19 Revised Revenue Budgets.

DECISIONS TAKEN BY THE COMMITTEE**OS 18/22 PROVISION OF PUBLIC CONVENIENCES - SCOPING REPORT**

The report of the Director of Street Scene, Leisure and Technical Services set out the basis of a review of the Council's provision of public conveniences. It was reported that the review would incorporate a detailed audit of existing provision and examine alternative options to ensure that future service delivery met an identified need and was as cost effective as possible. Members requested that the use of public conveniences by lorry and taxi drivers be included in the factors to be taken into account (as set out at paragraph 1.2.2 of the report) when assessing current usage. With regard to the Options to be included in the review as set out at paragraph 1.4.1 of the report, the Committee supported items (ii) to (vi), subject to the expansion of (v) to include the Leisure Trust and Kent County Council.

RESOLVED: That

- (1) a detailed audit of the Council's current provision of public conveniences be progressed;
- (2) the exclusion of option (i) and inclusion of options (ii) to (vi) as set out in sub-section 1.4 of the report be confirmed;
- (3) a full review of the Council's future provision and delivery of public conveniences be progressed; and
- (4) a report on the outcome of the review be presented to the meeting of the Overview and Scrutiny Committee to be held on 18 October 2018.

MATTERS FOR CONSIDERATION IN PRIVATE

OS 18/23 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 9.05 pm

Agenda Item 4

Any Executive Decisions which have been “called in”

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TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

16 August 2018

Report of the Chief Executive

Part 1- Public

For decision

1 ROAD CLOSURES REVIEW – INITIAL REPORT

To set out the legal, financial and operational issues involved when considering future road closures for events in the Borough.

1.1 Background

1.1.1 There are approximately 40 community events held around the Borough each year of which require road closures. Events include: Scout and Guide parades, Palm Sunday processions, St Georges Day parades, May Day celebrations, carnivals, street parties for local events, to assist with pedestrians exiting fireworks celebrations, Remembrance parades, services and wreath laying, Winter Festivals, Christmas Fayres/Light switch on/Carols.

1.1.2 There are two sets of powers available to allow temporary road closures:

(a) The Town Police Clauses Act 1847

(b) The Road Traffic Regulation Act 1984

1.1.3 The purpose of this review is to explore:

(a) whether the use of the Town Police Clauses Act remains the most appropriate legislation to utilise for all local events;

(b) if not, what would be the implications for the Borough Council and event organisers should the Road Traffic Regulation Act be required to be used as the alternative.

1.2 The Police Town Clauses Act 1847

1.2.1 The Town Police Clauses Act 1847 (“TPCA”) remains the main legislation available to be used by the Borough Council for road closures whereas the Road Traffic Regulation Act is a power exercisable only by the Local Highway Authority

(KCC). The Borough Council continues to utilise provisions of the TPCA to facilitate these local road closures.

1.2.2 The wording of the TPCA at Section 21, states:

“The Commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets, within the limits of the special Act, in all time of public processions, rejoicing, or illuminations, and in any case when the streets are thronged or liable to be obstructed and may also give directions to the constables for keeping order and preventing obstruction of the streets in the neighbourhood of theatres and other places of public resort.”

1.2.3 Therefore, the Council, as the ‘commissioners’ may make an order to control traffic in an area where there is a special occasion which is likely to result in ‘thronging’. The event must be of a special kind, within the category of which public processions, rejoicings and illuminations are specific instances¹, as distinct from the everyday life of a town or place and an "occasion" when the streets, for reasons other than the normal day-to-day usage, are likely to contain more than the usual amount of traffic.

1.2.4 The *Brownsea Haven* ruling means that the events which may be covered by a s.21 Order are limited to events which are similar in nature to those occasions which are specified in that Section (the “*ejusdem generis*” rule).

1.2.5 There is no specific legal provision regarding the duration of such occasions, however the very nature of “processions, rejoicing[s] or illuminations” and the like are generally likely to be short-term (e.g. a Remembrance Parade). Longer duration “events” are less likely to fall within the category of the type of occasions covered by this provision.

1.2.6 The events currently supported by the TPCA closures are generally charitable in nature and contribute to community life across the Borough. The Borough Council currently makes no charge for processing road closures orders under the TPCA and officers contribute further by assisting with advice to event organisers, drawings for locations of signage and lending signs and cones.

1.2.7 Only the Borough Council have the legal power to use the TPCA, but KCC (as Highway Authority) and the Police have a number of legal obligations, powers or duties in relation to the public highway, prevention of crime and disorder and to preserve public safety.

1.2.8 The process is currently:

- The event organiser provides their event management information to TMBC

¹ As set out by the Court of Appeal in *Brownsea Haven Properties v Poole Corporation* (16 December 1957)

- TMBC forward the event information to KCC, Police and TMBC Safety Advisory Group
- TMBC provide the event organiser with a draft Order for them to check and confirm it matches their requirements.

1.2.9 The Borough Council will only complete the legal Order once we have received support for an event from KCC. Event organisers are responsible for meeting any conditions that KCC or the Police set. Once KCC support has been received, The Borough Council processes a Final Order and displays this at the site of the road closure. It should be noted that no organisation 'gives permission' for an event to take place on the public highway. Responsibility for the running of any event lies with the event organiser.

1.2.10 Overall, the process adopted has proved adequate and has enabled many local community events to take place successfully.

1.3 Road Traffic Regulation Act 1984

1.3.1 The Road Traffic Regulation Act 1984 ("RTRA") provisions tend to focus on more extensive periods of road closures, or in circumstances where the "event" in question is not within the categories of events covered by the TPCA (for example, a Farmer's Market), and are less easy to implement in relation to road closures for community events. The process involved to secure a closure under that Act is more protracted and therefore there is a longer period of time needed to secure the necessary authorisations. In addition, the Highway Authority also charges a fee for its use, usually between £600 and £1,000 for each event. If it is found that the TPCA cannot be used to support these events, there would be a risk that some local events might have to be discontinued as the costs of the road closures would be prohibitive for local community groups. The Borough Council could potentially assist with such funding but there is currently no budget to support this approach, a cost which could extend to £40K per annum.

1.3.2 Some of the larger community events in Tonbridge and Malling may be possibly more suited to RTRA closures, for example, The West Malling Christmas Fayre, Snodland Carnival and Christmas celebrations, Tonbridge Town Carnival and Tonbridge Christmas Festival. However, organisers would need to apply direct to the Highway Authority for these closures and would need to pay the fee, as set out above.

1.4 Views of Kent Police

1.4.1 It is understood that Kent Police have concerns regarding the use of the TPCA for road closures for local events, particularly those that last a full day. Further consultation with the Police on this matter is recommended.

1.5 Next Steps

- 1.5.1 It is clear that, from the perspective of the Borough Council, continued use of the TPCA for local events is the most appropriate legislation to utilise. However, to take forward the review, it is suggested that, having taken account of views from Members from this initial discussion, we consult formally with both Kent County Council and Kent Police to ascertain their views in relation to local road closures.
- 1.5.2 Whilst neither body has the power to impose any restrictions on the use of the TPCA, it would be useful to understand their concerns about its continued use and how the differences of opinion could be resolved. It does cause concern and potentially risk for TMBC if we are using powers to facilitate community events where there are recorded objections from other statutory services. All parties will of course wish to put residents safety as the highest priority, and this review will assist in supporting this approach.
- 1.5.3 In addition, it is suggested that we also consult with other Kent districts to ascertain what use is made of the TPCA across the County and if this is not now in use, what procedures they undertake to deal with such road closures.
- 1.5.4 A further report with final recommendations will be reported to our next meeting of the Overview and Scrutiny Committee.

1.6 RECOMMENDATION

- 1.6.1 That the contents of this report **BE NOTED** and that a further report be made to the next meeting of this Committee regarding the issues outlined in section 1.5 of this report.

Background papers:

Nil

contact: Kevin Toogood
Mark Raymond
Andy Edwards

Julie Beilby
Chief Executive

TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

16 August 2018

Report of the Chief Executive

Part 1- Public

Matters for Information

1 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – ANNUAL REVIEW LETTER 2017/18

To set out the annual report of the Ombudsman regarding complaints received and dealt with over the past year.

1.1 The Annual Letter

1.1.1 Each year, the Ombudsman provides Councils with a report of the formal complaints he has dealt with and the outcomes of those complaints.

1.1.2 Attached as Annex 1 to this report is the letter that covers the period 2017/18 along with information on each complaint dealt with. It is of note that, of the complaints dealt with by the Ombudsman over the past year, there were no judgements against the Council, with five complaints closed after initial enquiries, three referred back for local determination and one case formally considered by the Ombudsman but not upheld.

Background papers:

contact: Mark Raymond

Nil

Julie Beilby
Chief Executive

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18 July 2018

By email

Julie Beilby
Chief Executive
Tonbridge and Malling Borough Council

Dear Julie Beilby,

Annual Review letter 2018

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman (LGSCO) about your authority for the year ended 31 March 2018. The enclosed tables present the number of complaints and enquiries received about your authority and the decisions we made during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

Complaint statistics

In providing these statistics, I would stress that the volume of complaints does not, in itself, indicate the quality of the council's performance. High volumes of complaints can be a sign of an open, learning organisation, as well as sometimes being an early warning of wider problems. Low complaint volumes can be a worrying sign that an organisation is not alive to user feedback, rather than always being an indicator that all is well. So, I would encourage you to use these figures as the start of a conversation, rather than an absolute measure of corporate health. One of the most significant statistics attached is the number of upheld complaints. This shows how frequently we find fault with the council when we investigate. Equally importantly, we also give a figure for the number of cases where we decided your authority had offered a satisfactory remedy during the local complaints process. Both figures provide important insights.

I want to emphasise the statistics in this letter reflect the data we hold, and may not necessarily align with the data your authority holds. For example, our numbers include enquiries from people we signpost back to the authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside an annual review of local government complaints. The aim of this is to be transparent and provide information that aids the scrutiny of local services.

Future development of annual review letters

Last year, we highlighted our plans to move away from a simplistic focus on complaint volumes and instead turn focus onto the lessons that can be learned and the wider improvements we can achieve through our recommendations to improve services for the many. We have produced a new corporate strategy for 2018-21 which commits us to more comprehensively publish information about the outcomes of our investigations and the occasions our recommendations result in improvements to local services.

We will be providing this broader range of data for the first time in next year's letters, as well as creating an interactive map of local authority performance on our website. We believe this will lead to improved transparency of our work, as well as providing increased recognition to the improvements councils have agreed to make following our interventions. We will therefore be seeking views from councils on the future format of our annual letters early next year.

Supporting local scrutiny

One of the purposes of our annual letters to councils is to help ensure learning from complaints informs scrutiny at the local level. Sharing the learning from our investigations and supporting the democratic scrutiny of public services continues to be one of our key priorities. We have created a dedicated section of our website which contains a host of information to help scrutiny committees and councillors to hold their authority to account – complaints data, decision statements, public interest reports, focus reports and scrutiny questions. This can be found at www.lgo.org.uk/scrutiny I would be grateful if you could encourage your elected members and scrutiny committees to make use of these resources.

Learning from complaints to improve services

We share the issues we see in our investigations to help councils learn from the issues others have experienced and avoid making the same mistakes. We do this through the reports and other resources we publish. Over the last year, we have seen examples of councils adopting a positive attitude towards complaints and working constructively with us to remedy injustices and take on board the learning from our cases. In one great example, a county council has seized the opportunity to entirely redesign how its occupational therapists work with all of its districts, to improve partnership working and increase transparency for the public. This originated from a single complaint. This is the sort of culture we all benefit from – one that takes the learning from complaints and uses it to improve services.

Complaint handling training

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2017-18 we delivered 58 courses, training more than 800 people. We also set up a network of council link officers to promote and share best practice in complaint handling, and hosted a series of seminars for that group. To find out more visit www.lgo.org.uk/training.

Yours sincerely,



Michael King
Local Government and Social Care Ombudsman
Chair, Commission for Local Administration in England

Annex 1

Local Authority Report: Tonbridge and Malling Borough Council
For the Period Ending: 31/03/2018

For further information on how to interpret our statistics, please visit our website:
<http://www.lgo.org.uk/information-centre/reports/annual-review-reports/interpreting-local-authority-statistics>

Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	3	2	0	1	0	4	2	0	12

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Decisions made

				Detailed Investigations			
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Not Upheld	Upheld	Uphold Rate	Total
0	0	3	5	1	0	0%	9

Notes

Our uphold rate is calculated in relation to the total number of detailed investigations.
 The number of remedied complaints may not equal the number of upheld complaints. This is because, while we may uphold a complaint because we find fault, we may not always find grounds to say that fault caused injustice that ought to be remedied.

Complaints Remedied

by LGO	Satisfactorily by Authority before LGO Involvement
0	0

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Agenda Item 7

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 8

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 9

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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