

TONBRIDGE & MALLING BOROUGH COUNCIL
OVERVIEW AND SCRUTINY COMMITTEE

03 December 2020

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

For Decision

1 VIRTUAL MEETINGS & HOMEWORKING – SCOPING REPORT

This report sets out the basis for a review of virtual meetings and homeworking

Background

- 1.1.1 In common with every other local authority, the restrictions on movement introduced by the government in March 2020 in response to the coronavirus pandemic brought about an overnight change in the way in which the Council delivered its services, and conducted its democratic processes. It would have been unthinkable a year ago to imagine that the vast majority of Council meetings during 2020 would have been delivered virtually, or that the vast majority of staff would have worked from home on a full time basis since March 2020.
- 1.1.2 Whilst the changes have been imposed upon the Council, the extended period during which we have operated under the changed working environment has provided the opportunity to consider whether there could be longer term benefits to embracing new ways of working and conducting Council business.
- 1.1.3 In the addendum to the Corporate Plan for 2020/21, Cabinet agreed the following as part of the 'Running the Council' theme within the Review, Reorientation and Recovery strategy:-
- We would undertake a review of the effectiveness of homeworking/flexible working and the potential to embed it within the culture of the Council in the longer term;
 - Where appropriate, Managers to build flexible working into the work patterns for their teams in order to build resilience into the organisation and embed new ways of working;
 - To review office accommodation requirements in light of changes to homeworking/ flexible working and in order to reduce overheads and meet the targets set within the adopted Climate Change Strategy

1.1.4 In respect of the 3rd bullet point above, Members are also asked to note that Cabinet resolved (30 June 2020) as follows:-

'Management Team be asked to conduct a review of all the Borough Council's assets, including use of the Gibson Building, to cover all areas as well as the need, function and capability of the Council Chamber and Committee Room for Council, Cabinet, Advisory Board and Committee meetings, in line with the Digital and Climate Change Strategies.'

1.1.5 The Draft Climate Change Action Plan for 2020 includes the following targets under the theme of 'TMBC Estate' –

- Undertake an assessment of business mileage for all staff and develop a policy to support tele-conferencing and skype meetings to reduce business travel;
- Amend the homeworking policy to encourage greater take up of homeworking/ flexible working where possible, to reduce home to work travel

1.1.6 This report sets out the current position in relation to both virtual meetings and homeworking and asks Members to consider scoping options for future review.

1.2 Virtual Meetings

1.2.1 Virtual meetings are permitted by the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020. These regulations are of temporary effect, as they apply only to meetings required to be held, or held before 7 May 2021. However, it is possible that Parliament may seek to extend the regulations prior to that date if the transmission of the coronavirus remains a risk at face to face council meetings. I am aware that a Parliamentary question was asked during November to ask the Government whether it intended to legislate so that Councils may retain the powers to hold virtual meetings. In response the Minister confirmed that the Government would be considering the case for extending these regulations in the coming months

1.2.2 The Borough Council moved quickly to adopt the Microsoft Teams platform to conduct meetings, with the first virtual meeting taking place on 19 May 2020.

1.2.3 The operation of a virtual meeting programme has meant that the Borough Council has maintained an effective decision making process during the coronavirus pandemic. We have also managed to facilitate public speaking at Area Planning Committees through Microsoft Teams and there have been no adverse comments received from residents regarding this approach.

1.2.4 Meetings are available to view by members of the public in real time, via the Council's YouTube Channel. Recordings are also retained on the channel for viewing post-meeting.

- 1.2.5 On 07 May 2020 the Leader exercised his powers under paragraph 1.4 of the Executive Procedure Rules to amend the extent of delegation to the Monitoring Officer so as to allow temporary changes to be made to the Constitution to facilitate virtual meetings.
- 1.2.6 The amendment to the Constitution as made by the Monitoring Officer i.e. the inclusion of a protocol for the use of video-conferencing facilities is set out at **Annex 1**. The proposed amendment was agreed by the Leader and Deputy Leader, and notified to all Members on 14 May 2020, and subsequently reported to Council on 14 July 2020.
- 1.2.7 It is suggested that the Committee may wish to consider the effectiveness of the Protocol at Annex 1 as part of their review.
- 1.2.8 It is expected that there will be a divergence of opinion amongst Members about the effectiveness and desirability of virtual meetings. I am aware that some Members would wish to return to face to face meetings at the earliest opportunity, with others more comfortable with conducting council business via Microsoft Teams.
- 1.2.9 Given the current national restrictions, the present ability of the Council to hold anything other than virtual meetings will largely be dictated by the national situation in relation to coronavirus. It is therefore suggested that the Committee might wish to focus its considerations on the longer term position i.e. whether the Council wishes to embrace virtual meetings post-pandemic, in whole or in part (e.g. through hybrid meetings).

1.3 Homeworking

- 1.3.1 The vast majority of Council staff have worked from their homes since the middle of March 2020. Staff have currently been advised to work from home until 31 March 2021, with a review to be undertaken at the end of February. At the time of preparing this report, the advice of the Government is that office workers who can work from home should do so.
- 1.3.2 Some services/ staff have continued, or resumed working from locations other than their home address to varying degrees where there has been a business need to do so or if it has been impractical for individual members of staff to work from home. For example, some services are unable to work from home due to the nature of the specific work they undertake e.g. Civil Enforcement Officers. Presently the numbers of staff at the Gibson Building vary from day to day (between 20 and 30), Staff are also present at Tonbridge Castle, and engaged in work activities at other locations e.g. Environmental Health Officers will be making visits to premises.
- 1.3.3 The Council's current policy on homeworking is attached as **Annex 2**. This was last reviewed by the General Purposes Committee in October 2018. The policy sets out the procedure to be followed upon receipt of a request for homeworking, and therefore envisages that it will be the employee who requests to work at home rather than the Council seeking to encourage the same. Any changes to the policy

would need to be subject to consultation with Unison and the Joint Employee Consultative Committee, with final approval falling to the General Purposes Committee.

- 1.3.4 Pending the review of the position in relation to working arrangements in February 2021, Officers have revisited the review of our occupation of the Gibson Building, in accordance with the decision taken by Cabinet on 30 June 2020 as set out at 1.1.4 above. Staff have been made aware that this review is underway.
- 1.3.5 Members may be familiar with a previous review of our occupation of the Gibson Building, with that review having been reported to meetings of this Committee on 24 May 2018 and 29 August 2019. At the earlier of these meetings Members were presented with an options appraisal for future use of the buildings, within which it was highlighted that there were a number of restrictions within the Borough Council's freehold title to the property which needed to be discussed further with Kent County Council.
- 1.3.6 A report on our discussions with the County Council was reported to the meeting in August 2019, at which time Members resolved
- That a formal response be sent to Kent County Council declining their proposal as financially unviable;
 - Officers continue to pursue opportunities to maximise the rental income from third parties for occupation and use of the Gibson Building.
- 1.3.7 For the assistance of Members, the previous reports to this Committee are attached as **Annexes 3 & 4**. Members are asked to note that the options appraisal is now somewhat dated and would need to be completely refreshed in due course.
- 1.3.8 If the Borough Council is to progress viable alternatives to the current working arrangements at the Gibson Building, it remains the case that the consent of the County Council will be required in order to release or modify the relevant restrictions on our title. Officers have therefore been in further discussions with Kent County Council to find a mutually acceptable way forward. We are also exploring with KCC whether it would be feasible for both authorities to rationalise their office accommodation at Kings Hill e.g. through co-location. These discussions are at an early stage, as detailed feasibility work will be required to better understand the potential to achieve efficiencies.

1.4 Legal Implications

- 1.4.1 The legal basis for holding virtual meetings is set out at para 1.2.1 above. The provisions within the relevant regulations apply to meetings that are required to be held, or held before 7 May 2021.
- 1.4.2 As an employer, the Council is responsible for employees' welfare, health and safety 'so far as is reasonably practicable' (s2, Health and Safety at Work etc Act

1974). It must also conduct a suitable and sufficient risk assessment of all the work activities carried out by employees, including homeworkers, to identify hazards and assess the degree of risk (Reg 3, Management of Health and Safety at Work Regulations 1999). The Council also has duties under the Health and Safety at Work etc Act 1974 and the Occupiers Liability Acts of 1957/ 1984 relating to visitors and others who may be on Council premises e.g. attending Committee meetings.

- 1.4.3 In addition to the statutory duties, the Council has a common law duty to take reasonable care for the safety of its employees e.g. a duty to see that reasonable care is taken to provide staff with a safe place of work, safe tools and equipment, and a safe system of working. It is also an implied term of employment contracts that employers will take reasonable care for the health and safety of employees and provide a reasonably suitable working environment for the performance of the employee's contractual duties.

1.5 Financial and Value for Money Considerations

- 1.5.1 The financial implications associated with any review of virtual meetings and homeworking will be reported to a future meeting.

1.6 Risk Assessment

- 1.6.1 As set out at paragraph 1.2.1 above, the regulations permitting virtual meetings are due to expire on 7 May 2021 so the ability of the Council to continue to hold such meetings, or indeed to return to face-to-face meetings is largely dependent upon the national situation in relation to coronavirus and any government response thereto.
- 1.6.2 The working arrangements for staff are also dependent upon the national situation in relation to coronavirus. Suitable and sufficient risk assessments have been undertaken in respect of the current arrangements, both in respect of those staff who are working at the offices/ elsewhere in the Borough and those working at home.

1.7 Equality Impact Assessment

- 1.7.1 To ensure that the Borough Council have due regard to equality duties an Equality Impact Assessment will need to be undertaken if it is opted to make any changes to the contractual working arrangements for staff.

1.8 Policy Considerations

- Asset Management
- Business continuity/ resilience
- Climate Change

- Customer Contact
- Communications

1.9 Next steps

1.9.1 A number of options have been provisionally identified, and are set out below. Members are requested to consider which of these options they wish to see included in the review:-

- Review the effectiveness of the adopted protocol for the use of video-conferencing facilities;
- Review whether, post-pandemic, the Council would wish to continue with virtual Council meetings;
- Review the feasibility of rationalising the Borough Council's office accommodation at the Gibson Building, with a view to increasing the amount of homeworking, supporting our climate change strategy and reducing our overheads.

1.9.2 A further report with final recommendations will be reported to a future meeting of the Overview and Scrutiny Committee together with the associated financial implications.

1.10 Recommendations

1.10.1 That the contents of this report **BE NOTED** and that a further report be made to a future meeting of this Committee regarding the options identified in section 1.9 of this report.

Background papers:

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None

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