

Town Clerk's Report to Full Council

20th September 2022

WORKING GROUPS, BOARDS & PANELS – (AGENDA ITEM 10)

The Council has a number of Boards, Panels and Working Groups, some of which have been established for many years and others that have been established in more recent years to deal with more time-limited issues or projects. There has been confusion with regards to the purpose of some of these Working Groups and how they fit into the workings and decision-making processes of the council.

None of the Panel, Board and Working Groups are committees of the Council and they are not open to the public. It is opportune to remind all members that decisions can only be taken by one of the following;

- the Council at a meeting;
- a committee of the council at a meeting, or;
- an officer under delegated authority.

This means that individual councillors or councillors meeting at any other sort of meeting cannot make decisions. Such meetings, whether they are Working Group meetings established by the council or a committee, or a meeting arranged with an officer on a less formal basis are opportunities for those officers who have delegated decision making authority to consult with members prior to reaching a decision. Obviously if those officers are uncomfortable with making a decision following consultation, they can take the matter to a meeting of the council or a committee.

On 15th March 2022 the following was

RESOLVED: That Trowbridge Town Council creates a protocol that all Working Parties must adhere to at all times to ensure they are accountable to the Council and function well. Each Working Group should prepare clear terms of reference to be approved by P&R on 3rd May 2022. The protocol should also be implemented by this date.

The protocol is as follows:

- 1. The Council and any of its Committees can set up a Working Group to carry out tasks as defined by the Council or the Committee. The opportunity for residents to join such groups will be for the Working Group to determine.**
- 2. The purpose of Working Groups is to meet to discuss issues, explore options, and develop plans and then report back to the Council or Committee with recommendations. Subsequently, Working Groups may be tasked to deliver their plans. They have no decision-making powers but simply present the Council or Committee with their findings. However, their ability to give particular topics much more time outside agenda-driven meetings is invaluable.**
- 3. When setting up a Working Group, the Council or Committee must set clear terms of reference for it regarding objectives, scope and outcome(s). These will be approved by the Council or Committee before the Working Group is formed. Once their work has been completed, the Working Group will be disbanded.**
- 4. The Terms of Reference will include this protocol and the name of the Committee to which the Working Group reports.**
- 5. The Terms of Reference and membership will be published on the Council's website.**
- 6. The number of Councillors able to join a Working Group will be decided at the time of its formation but it must consist of no fewer than three councillors.**
- 7. The Working Group will notify the Council or Committee of the name of the Chair once they have been appointed after the first meeting.**
- 8. A quorum for any meeting of a Working Group will be three members, at least one of whom must be a councillor.**

9. The role of the Council or sponsoring Committee is to consider and question the recommendations put to it by the Working Group before a decision is taken and, in the case of a Committee, to be satisfied with them before making any recommendations to the full Council.

10. A Working Group will be accountable to its sponsoring Committee unless agreement is made, due to expediency and subject to agreement via email of a majority of members of that sponsoring Committee, for recommendations to be made to the Policy & Resources Committee or to Full Council;

11. The Working Group must provide the Council or Committee with such information as necessary to ensure it can make an informed decision on its recommendation(s).

12. A Working Group will not have a budget. The budget will remain with the Council or sponsoring Committee.

13. Working Groups do not meet in public, therefore the Council's Standing Orders are not applicable. However, the Code of Conduct still applies and declarations of pecuniary and other interests will be required at each meeting.

14. All Working Groups will follow all relevant Council policies;

15. All documents and records produced and emails shared by working groups will be retained and disposed of in accordance with the Council's Retention Policy.

16. An officer of the Council should be in attendance at Working Group meetings to take notes. A clear agenda (or document resembling an agenda) should also be prepared by the officer in consultation with the Chair of the Working Group. The agenda and notes should then be made available on the website, with commercially-sensitive information being redacted when appropriate.

17. Working Groups may meet in person or online.

The following shows the reporting committee for each working group.

The notes of any Working Group meeting are not a record of decisions taken at that meeting and those notes should not be taken as or presented as a record of the decisions taken.

All of the Boards, Panels and Working Groups were confirmed for the 2022/23 council year at the Annual Council Meeting on 17th May. Membership is shown as of the Annual Council Meeting in May 2022.

Unfortunately, the Doric Park Working Group has not met. Following the release of confidential information, officers advised that it would be inappropriate to continue the meetings, as officers would not be able to provide certain information without it compromising the council. Informal consultative meetings have taken place on an ad-hoc basis between officers and councillors.

Working Groups are not covered in the Standing Orders of the Council but the following Standing Order covers the potential to change the membership of a committee during the council year:

A15.4.3 may subject to the provisions of Standing Order A15.1 above at any time dissolve or alter the membership of a committee.

It is therefore appropriate for the council to consider altering the membership of Working Groups, Boards and Panels during the council year.

Panels and Boards

Town Clerk's Review	Antonio Piazza	David Cavill	Stewart Palmen
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Typically meets once a year to undertake the Town Clerk's annual appraisal, to agree objectives and to consider (if appropriate) the salary. If any decisions are required, these will be taken to the Full Council as a report and recommendations for the Full Council to reach a decision.

Civic Board	Edward Kirk	Graham Hill	Andrew Bryant	Stephen Cooper	David Vigar	Stewart Palmen
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The Civic Board reports to the Policy & Resources Committee and provides an opportunity for the Civic Manager and their line manager; the Head of Services (Venues) to consult with members on those matters which are delegated by the Council to those officers.

Risk & Audit Panel	Edward Kirk	Caroline Lincoln	David Cavill	Andrew Bryant	Stephen Cooper	Stewart Palmen
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The Risk & Audit Panel reports to the Policy & Resources Committee and provides an opportunity for councillors to consider more detailed matters relating to matters of risk, including financial risk and insurance and internal and external audit.

Working Groups

Reporting to Neighbourhood Services

Anti-Social Behaviour & Street-crime Working Group	Daniel Cave	Stephen Cooper	David Vigar	Stewart Palmen
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This group has only been fully established since May 2022 with the first meeting being held on 16th May. This working group will make recommendations to the council to deter & combat anti-social behaviour & street crime in the town. It will work in collaboration with Wiltshire Police, Wiltshire Council and other relevant public bodies to achieve this aim and ensuring a robust response to ASB&SC across the town.

Public Toilet Working Group	Antonio Piazza	Andrew Bryant	Stephen Cooper	Graham Hill
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This working group has been established for a couple of years and its main focus is the development of new toilet facilities within the town park. The planned proposal for the new toilets is to re-purpose the old tourist information building which is adjacent to the multi-storey carpark. The last meeting was held on 2nd August.

ECO Working Group	Mel Jacob	Chris Hoar	Stewart Palmen
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This group was established to work with partners and the public on improving the ecology and environmental quality of the town.

Tender Review Working Group	Daniel Cave	Andrew Bryant	Stephen Cooper
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This group has only met once to review the play area tenders.

Service Delegation Working Group	Jo Trigg	Stephen Cooper	David Cavill
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TERMS OF REFERENCE (27th May 2022)

The Working Group is established by Trowbridge Town Council.

It reports to the Neighbourhood Services Committee to which it will make recommendations.

It does not have a budget.

It does not have decision making responsibility.

Officers may have delegated decision making authority to make decisions resulting from consultation with members through the Working Group.

Recommendations may be made to the Policy & Resources committee or directly to the Full Council for expediency or where there are budgetary implications beyond the funds available to the NS committee.

It will consider the following:

Arrangements for agreeing and then implementing a package of Service Delegation from Wiltshire Council to Trowbridge Town Council due to commence on 1st December 2022; including equipment, staffing and TUPE, extent of service delegation.

Discussions with Persimmon regarding the potential adoption of public amenities and areas on the Ashton Park development.

Discussions with Redrow regarding the potential adoption of public amenities and areas on the Ashton Park development.

MEMBERSHIP

The Facilities Manager (Karl Buckingham) is the lead officer for Neighbourhood Services

The Town Clerk (Lance Allan) will attend if required.

The Council Secretary (Natasha Patterson from 20.06.22) will attend to take minutes and actions.

Reporting to Leisure & Information Services

Doric Park Working Group	Antonio Piazza	David Vigar	Mel Jacob	Stephen Cooper	Denise Bates
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The Working Group was established by the Council on 18th January 2022:

That Trowbridge Town Council sets up a working group of 4 Councillors to help oversee the Doric Park project and issues detailed monthly updates through its newsletter, social media channels, and the town council website, also providing press releases to The Wiltshire Times.

SERVICE DELEGATION – (AGENDA ITEM 11)

The following email was sent by the Town Clerk to Wiltshire Council on 8th August:

Thank you very much for your suggestion made at the quarterly meeting with Terence and Andy on Tuesday 19th July regarding the issues related to the potential Service Delegation from Wiltshire Council to Trowbridge Town Council.

As you know, the town is keen to take over a range of services in Trowbridge from Wiltshire Council and has, following discussions over many years, entered into negotiations with Adrian Hampton in the past year, with a view to a Service Delegation package being agreed and service responsibility transferring on 1st December 2022. The remaining issue is that of responsibility for Trowbridge Cemetery at The Down.

Wiltshire Council had indicated that this was not part of the Service Delegation package for Trowbridge and our negotiations had progressed on this basis until it was suggested that Wiltshire Council could not reach outside of its policy framework which was that the cemetery should be included in a comprehensive package.

The Town Council confirmed its policy position, that it was not prepared to take the risk of taking over the cemetery within the Service Delegation package in December 2022 and the town council position remains as such. Having discussed your suggestion from Tuesday 19th of the transfer of the cemetery within a period of 6 to 12 months beyond the main Service Delegation package on 1st December, with some of the councillors, I am now able to clarify the town council's position:

- 1. That the previously agreed Service Delegation package proceeds on 1st December 2022 without any services related to Trowbridge Cemetery at The Down transferring on that date.*
- 2. That following the Service Delegation transfer and no later than 31st January 2023 the parties enter into meaningful discussions in respect of an Asset Transfer of Trowbridge Cemetery at The Down, with any Asset Transfer not taking effect until after 31st March 2024.*
- 3. That in the period from 1st April 2023 until 1st December 2024 (or beyond if the asset transfer takes place after 1st December 2024) both councils will work together to; a. ensure full disclosure of costs, remaining capacity and revenue potential for Trowbridge Cemetery at The Down, b. training of staff in relation to operations at the cemetery and administration of the cemetery and c. full access to all records.*
- 4. Independent assessment of the cemetery and the records by the Institute of Cemetery and Crematorium Management (ICCM) at Wiltshire Council's expense and rectification of any matters identified by the independent assessment as requiring rectification at Wiltshire Council's expense and prior to the Asset Transfer taking effect.*
- 5. The inclusion in the Core Strategy review of a new cemetery for Trowbridge to be delivered no later than 31st December 2038 and earlier if the independent review by the ICCM determines that the existing Trowbridge Cemetery at The Down will exceed capacity before 31st December 2038, to be provided by a developer or developers in conjunction with allocation of a development or number of developments and located within Trowbridge or wholly within two kilometres of Trowbridge town boundary and funded by that developer/those developers/other developer contributions or from the Wiltshire Council share of Community Infrastructure Levy/Infrastructure Levy or other such levy or charge on developments.*

You will appreciate why it would not be appropriate to address the Trowbridge Cemetery at The Down through Service Delegation, partly as the Cemetery includes a number of buildings and therefore why the town council position is that this should be an Asset Transfer and also why the timetable for such a Transfer should be longer than the 6 to 12 months you suggested.

The Town Council hopes we can reach an agreement on this basis.

Lance Allan BSc FSLCC
Town Clerk & Chief Executive

The following email was received from Wiltshire Council on 8th September:

Wiltshire Council remains committed to enabling the service delegation by 1st December and my team will continue to work with yours to put all necessary arrangement in place.

If I understand your position correctly the Town Council's concerns relate to the Burial and Memorial Services at the Cemetery. I am less clear on the grounds maintenance position, as this maintenance would be very similar to the rest of the town and a delay to the service delegation on the 1st December would not appear to be needed there.

With regards to the burials and memorials, I restate Wiltshire Council's position that we would be very pleased to support the Town Council with the delegation. Having just completed a similar transfer in Bradford on Avon we have considerable experience in successfully transferring the service. We can provide the required training and documents to facilitate this delegation. We can also arrange to undertake job shadowing to ensure the Town Council is fully supported. However, if this continues to cause concern we could delay the delegation of burials and memorials to allow you to be fully comfortable with the service. We are prepared to accept a delay with regard to the Cemetery up to 1st April 2024, however we require a contractual obligation in the delegation agreement for the transfer of the Cemetery. We cannot see any reason why this cannot be done much sooner as all the necessary measures will be in place. The offer of further support after transfer would also stand.

With regards to the information on costs, capacity and income generation I trust what Adrian Hampton provided was sufficient. However, if you require the personal details of the cemetery occupation in order to share all records, a data/confidentiality agreement would need to be signed as contact information is held for living grave owners. This would be simple to arrange.

Wiltshire Council staff are members of the ICCM which is an excellent organisation, and we attend their training and seminars for cemetery and burial processes. We also consult them on our management of the service when required. Our processes are robust and the council is confident in its actions. The council's responsibilities would be for the provision of the cemetery services until the date of the delegation and any error in cemetery burial process would remain with the council, even after the service delegation if it were an action by Wiltshire Council. This requirement is captured in the service delegation agreement, and we are not asking the Town Council to take on the liability of a historic failure in processes by Wiltshire Council. The Town Council would only be responsible for their operations after the service delegation. For avoidance of doubt, the liability for a historic burial failure in process pre-service delegation, however remote, remains with Wiltshire Council. With regards to the requirement to safety test all memorials, Wiltshire Council would ensure all memorials are tested just prior to the cemetery transferring, which would give the Town Council 4-5 years before the next round of testing is required.

Regarding the need for a new cemetery in Trowbridge, delivery of a cemetery can be included in the Infrastructure Development Plan. This requires evidence that there is no capacity in the existing site, and will be followed by options appraisals and site selection. It is not anticipated that the current site would reach capacity within the new local plan period. Should the need arise in future years, the evidence will be provided to the Local Planning Authority, who will then go through the process to include provisions in the document. I have discussed this with the spatial planning team who will be happy to advise further.

Parvis Khansari
Corporate Director – Place

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The agenda and reports for the Cabinet meeting which was scheduled to take place on 13th September were published on 5th September. This meeting has now been rescheduled to take place on 27th September. The agenda includes the following item:

12. Service Devolution & Asset Transfer Policy

[View the background to item 12.](#)

Report of the Chief Executive

Supporting documents:

- [Service Devolution & Asset Transfer Policy , item 12.](#) PDF 226 KB
- [Service Devolution Asset Transfer Policy Sept 2022 , item 12.](#) PDF 543 KB

The Council will be appraised of the decisions taken at WC Cabinet at the meeting.

The proposed policy includes the following:

3. Service and Asset Devolution

3.1 The Service and asset devolution package to prospective Town and Parish Councils will differ depending on the services provided and the assets held, however the following principles will be applied initially with any additional elements considered on a Parish/Town by Parish/Town basis:

3.1.1. Defined minimum of all services to be devolved include:

- Grounds Maintenance of all land for which Wiltshire Council has responsibility
- All Streetscene services currently provided within the boundary of the Town/Parish
- Weed control with Town/Parish Boundary
- Cemeteries
- Maintenance of closed churchyards

It should be noted that previous policy has been based upon an all or nothing transfer and that this is a change but that all of our discussions until recently have clearly indicated that policy was not being implemented and that the cemetery services would not be transferred. It should also be noted that since 2009 (when Wiltshire Council was established) there has not been a consistent policy position or a consistent implementation of policy and that the Town Park, Allotments, Garages, Play Area maintenance, Grit Bins, Street Furniture and Bus Shelters have all been transferred from Wiltshire Council to Trowbridge Town Council.

Considering each element of the communication exchange in turn, the Town Clerk reports to the Council as follows and concludes with a recommendation.

It has been made clear to the Town Council officers that it is no longer possible to complete any service delegation by 1st December 2022. This is impacted particularly by the need for TUPE consultation. Realistically the earliest potential transfer date is now probably February/March 2023.

The Town Council may have concerns but the position that the town council has taken is based upon a realistic expectation of the quantum of services that can be successfully transferred during 2022 and the impact on the cost of those services to the residents of the town as well as the understanding that Wiltshire Council retains a legal obligation to provide burial space.

The Town Clerk's understanding of the transfer of the Burial & Memorial service to Bradford on Avon Town Council is that it has not been without significant issues and concerns and therefore Wiltshire Council's

description of it as having been successful is arguable. For this and other reasons therefore, a transfer of responsibility without a reasonable period of preparation, training and co-working whilst Wiltshire Council retain responsibility would not be acceptable to the town council. April 2024, as suggested in the email from Wiltshire Council, would seem reasonable, if the Town Council was prepared to accept the responsibility for all services at the Down Cemetery.

It would be appropriate for the Town Council to sign the suggested data/confidentiality agreement.

Noting what is said in respect of the ICCM, the Town Clerk considers that it remains appropriate for the Town Council to require an independent report to be prepared by the ICCM prior to reaching any agreement for transfer of the Down Cemetery services.

The two parties do not appear to have a significant difference with regard to the potential requirement for a new cemetery. The suggested target date of 2038 is likely to be outside the revised Local Plan period (2016-2036) and it is therefore anticipated that it will be included in the following Local Plan period 2026-2046. The Town Council will need to receive reassurance from the Planning Policy officers at Wiltshire Council that this aspect will be taken forward at the appropriate time and with the full support of Wiltshire Council.

Having noted all of the above, and in particular the likely cost implications for the Town Council; the Town Council may conclude that Wiltshire Council's change of position is wholly unfair. That is, in firstly deciding, contrary to earlier indications, that policy was not being implemented, and then deciding to change the policy to, specifically ensure that the offer by Trowbridge Town Council to take responsibility for a range of services and save significant costs for Wiltshire Council can be declined. However, it remains the town council policy to seek to transfer services, which the residents of the town do not consider are being satisfactorily undertaken by Wiltshire Council.

RECOMMENDATION: That the Council:

- A. Progresses negotiations with Wiltshire Council, for the transfer of all remaining services covered by the Wiltshire Council Policy: 'Defined minimum of all services to be devolved', including those services relating to the Down Cemetery (maintenance and burials & memorials) on Monday 1st April 2024.**
- B. Requires that, in addition to such service devolution the Down Cemetery should also be a full asset transfer, to take effect on the same date.**
- C. Requires that, Wiltshire Council commit to an independent report by the ICCM relating to the arrangements for transfer, capacity and related issues.**
- D. Requires that, Wiltshire Council commit to including the provision of a new cemetery for Trowbridge in the Local Plan which includes 2038 in its plan period.**