

Whole Council Elections

For Full Council on Wednesday 14 December 2022

Summary

Lead Member: Cllr Rob Wormington – Chairman of General Purposes Committee

Lead Director: Lee Colyer – Director of Finance, Policy and Development

Head of Service: Jane Clarke – Head of Policy and Governance

Report Author: Jane Clarke – Head of Policy and Governance

Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
General Purposes Committee	5 December 2022
Special Full Council	14 December 2022

Recommendations

The recommendation is:

1. *“That Tunbridge Wells Borough Council hereby adopts a scheme of whole council elections, meaning an electoral cycle of one election every four years with all councillors being elected, with the first such election being held in 2024.”*

1. Introduction and Background

- 1.1 The legislation governing the move to whole council (all out) elections is contained within the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. The Acts give councils the power to decide whether to move to whole council elections, or back to elections by halves or elections by thirds (if they have elected this way at some point since 1 April 1974). The Council cannot move to a 'halves' electoral cycle as it has not elected this way in the past.
- 1.2 The legislation sets out the steps a Council must take when considering changing its electoral system. Should the Council pass a resolution to move to whole council elections, it cannot pass another resolution (i.e. to move back to a system of thirds) before the end of five years beginning with the day on which the resolution is passed.
- 1.3 The Council cannot pass a resolution on whole council elections unless:
 - It has taken reasonable steps to consult with such persons as it thinks appropriate on the proposed change.
 - It holds a meeting which is specially convened for the purpose of deciding the resolution.
 - The resolution is supported by a majority of at least two thirds of the members voting on it.
 - The resolution must specify the year for the first ordinary elections of the council at which all councillors are to be elected.
 - The whole council election year is not to be a county-council election year.

2. Consultation

- 2.1 The Council ran a public consultation between 13 October to 23 November, the results of which are summarised below.
- 2.2 The consultation was available to any resident in the Borough using the Council's online consultation software 'Talking Point' and was widely promoted through the Council's weekly digital newsletter and on social media.

- 2.3 Further to this, to ensure that those who did not commonly use digital channels to stay in contact with the Council, letters and emails were sent to just under 10,000 residents in the Borough, directly inviting them to take part in the consultation using a unique code. The addresses were chosen at random, but a percentage of addresses per ward were chosen (based on population size of the ward), with the aim to give (as far as possible) a fair representation across the wards of the Borough.
- 2.4 Direct invitations to respond online were also sent to Members of Parliament for the Borough, County Councillors, Town and Parish Chairs, the Chair of the Royal Tunbridge Wells Town Forum, and the Returning Officer for Maidstone Borough Council (who currently returns the Member of Parliament for Maidstone and the Weald Constituency, and so may be affected if all out Boroughs and a UKPGE or Parliamentary By-Election for that Constituency are combined).
- 2.5 There were 1,067 responses to the consultation. A demographic and ward breakdown is available at **appendix A**. Of those who responded, 686 chose the 'all out' electoral system (64%), and 381 chose the 'by thirds' electoral system (36%).
- 2.6 There were two letters of representation to the Committee were submitted from Borough Councillors: Cllr David Knight; and Cllr Tom Dawlings. Both are in favour of moving to all out elections and are attached at **appendices C-D** of the report.
- 2.7 There were also ten letters of representation to the Committee received from Parish and Town Councils, which are attached at **appendices E-O**. The Parish and Town Councils present a variety of arguments to Committee members, but all are in favour of moving to all out elections, principally in order to achieve greater flexibility in warding arrangements so that natural communities can be preserved. This is as a direct consequence of the current Electoral Review, which requires the Council to move to a three-member ward pattern if it retains elections 'by thirds'. The current draft proposals for the Electoral Review can be viewed here (goes to external website): [LGBCE Tunbridge Wells Electoral Review Draft Proposals](#).
- 2.8 There was one response received from the Chair of the Tunbridge Wells Branch of the Labour Party which is attached at **appendix P**.

3. Costs and Savings

- 3.1 It is worth repeating that, as a Best Value authority, Members are required to consider the costs of services, and from time to time review those costs to ensure that the tax-payer is receiving best value for money.

- 3.2 Whole Council elections (all out) cost less to run than electing by thirds, in particular where those elections can be combined with other significant elections such as the Police and Crime Commissioner elections as the costs for fixed entities such as polling stations, staff on polling stations, training etc., are shared.
- 3.3 An example of the savings that could be achieved over a four-year period is set out at **Appendix B**. This shows that over the four-year cycle from 2024 to 2027 the authority would save over £200,000 by not holding Borough elections in 2026 or 2027. Please note that this financial information was prepared in 2021, and since then costs have risen so it is likely that the savings achieved would be greater.

4. Next Steps

- 4.1 As outlined in section one, it must be a specially convened meeting of Full Council that passes a resolution to move to Whole Council elections.
- 4.2 In running a public consultation, and inviting specific organisations to consult, the Council has discharged its duty to ‘consult with such persons as it thinks appropriate on the proposed change’.
- 4.3 Members of the General Purposes Committee received the report as a procedural item on 5 December and resolved to refer the matter to Full Council for discussion. Should Full Council resolve to move to Whole Council elections, the first such election would be held in May 2024. If the Council decides to remain with a by-thirds electoral system, the existing electoral cycle will remain in place with Borough elections being held in 2023, 2024, 2026, 2027 and 2028, and County Council elections being held in 2025 and 2029. It should be noted that Borough elections cannot be held in the same year as County elections except by order of Parliament.

5. Appendices and Background Documents

Appendices:

- Appendix A: Consultation Breakdown
- Appendix B: Achievable Savings (from 2021 review)
- Appendix C: Letter from Cllr David Knight
- Appendix D: Letter from Cllr Tom Dawlings
- Appendix E: Representation from Brenchley and Matfield Parish Council
- Appendix F: Representation from Goudhurst Parish Council

- Appendix G: Representation from Capel Parish Council
- Appendix H: Representation from Lamberhurst Parish Council
- Appendix I: Representation from Cranbrook and Sissinghurst Parish Council
- Appendix J: Representation from Frittenden Parish Council
- Appendix K: Representation from Hawkhurst Parish Council
- Appendix L: Representation from Paddock Wood Town Council
- Appendix M: Representation from Horsmonden Parish Council
- Appendix N: Representation from Bidborough Parish Council
- Appendix O: Representation from Southborough Town Council
- Appendix P: Representation from Chair of the Tunbridge Wells Branch Labour Party

6. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The legislation governing the move to whole-council (all out) elections is the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011. The Acts give councils the power to decide whether to move to whole-council elections, or back to elections by halves or elections by thirds (if they have elected this way at some point since 1 April 1974). The Council cannot move to a 'halves' electoral cycle as it has not elected this way in the past.

The decision must be made by a special meeting of the Full Council with a two-thirds majority in favour of the recommendation to move to all out elections.

Claudette Valmond, Head of Legal Partnership, 14 November 2022

B. Finance and Other Resources

The move to all-out elections would save the avoid costs of two elections within a four-year cycle. An example of the savings that could be made in 2026 and 2027 is detailed in the report at section 3.

The Borough Council is a Best Value authority defined in the Local Government Act 1999. Best Value authorities are under a general Duty of Best Value to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

The consideration of moving to whole council elections by the General Purposes Committee, and consulting with the public and stakeholders on this issue fulfils this duty.

Jane Fineman, Head of Finance, Parking and Procurement, 14 November 2022

C. Staffing

Elections, referendums, Neighbourhood Planning referendums, Business Improvement District Polls and Parish Polls are organised, managed and run by the Electoral Services team within the Council. This team also administers the Register of Electoral and the annual canvass of electors. Reducing the number of Borough elections within the cycle would not significantly reduce the amount of work required to be done by the Electoral Services team, and so this report would not affect the internal resources of the Council in a substantial way.

D. Risk Management

There are no risk management issues as part of this report.

Jane Clarke, Head of Policy and Governance, 14 November 2022

E. Environment and Sustainability

There are no environment or sustainability issues to consider as part of this report.

Section 40, National Environment and Rural Communities Act 2006

40(1) Every public authority must, in exercising its functions have regard so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Section 85, Countryside and Rights of Way Act 2000

85(1) In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Jane Clarke, Head of Policy and Governance, 14 November 2022

F. Community Safety

There are no community safety issues to consider as part of this report.

Section 17, Crime and Disorder Act 1998

17(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

Jane Clarke, Head of Policy and Governance, 14 November 2022

G. Equalities

The Electoral Commission report from 2002 references research which suggests that both younger age groups and those with an ethnicity other than white were less likely to know when local elections were taking place, and that moving to a nationwide pattern of all out elections would improve enfranchisement for these groups compared with those who do not share their characteristics.

The Council is under a duty to advance equality of opportunity between persons who share a relevant protected characteristic (in this case age and ethnicity) and persons who do not share it. Moving to all out elections may provide an opportunity for the Council to positively impact on the opportunities of these groups to participate and vote in elections.

Section 149, Equality Act 2010

149(1) A public authority must, in the exercise of its functions, have due regard to the need to –

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Jane Clarke, Head of Policy and Governance, 14 November 2022

H. Data Protection

A public consultation has been run by the Council, which includes personal data in the form of comments and opinions from data subjects. This information has been collected through the Council's consultation portal, and will be deleted in line with the Council's retention scheme.

Article 5, General Data Protection Regulation 2016

1. Personal data shall be:

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject;

(b) collected for specific, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;

(d) accurate and, where necessary, kept up to date;

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;

(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Jane Clarke, Data Protection Officer, 14 November 2022

I. Health and Safety

There are no health and safety considerations as part of this report.

Jane Clarke, Head of Policy and Governance, 14 November 2022

J. Health and Wellbeing

There are no health and wellbeing considerations as part of this report.

- 1. Areas of deprivation: Will the proposal have an impact (positive or negative) on those living in areas of deprivation within the borough (40% most deprived in the country). These are Sherwood, Southborough and High Brooms, Broadwater and Rusthall.*
- 2. Healthier lifestyle opportunities: Will residents be more or less able to make healthier lifestyle choices such as physical activity (e.g. active travel, access to green spaces or access to leisure facilities), healthy eating (e.g. proximity or access to take away shops, allotments, food stores) and being smokefree*
- 3. Social and Community networks: Will the proposal make it easier for people to interact with one another e.g. encouraging community engagement*
- 4. Living and Working Conditions: does to proposal improve work or home environments, increase job, education or training opportunities, improve access to health services or housing*
- 5. General Socioeconomic, cultural and environmental conditions: Are there any other factors that may impact the above*

Jane Clarke, Head of Policy and Governance, 14 November 2022