

GUILDFORD AND WAVERLEY JOINT CONSTITUTIONS REVIEW GROUP

MINUTES OF MEETING HELD ON WEDNESDAY 29 MAY 2024

Present:-

Councillor Andy MacLeod (Joint Chair)
Councillor Paul Follows
Councillor Michael Goodridge
Councillor Catherine Houston
Councillor Gemma Long
Councillor Richard Mills OBE

Apologies were received from Councillor Joss Bigmore and Councillor James Jones.

Action By

1. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Joss Bigmore and Councillor James Jones.

2. **DISCLOSURE OF INTERESTS**

There were no disclosures of interest.

3. **MINUTES**

The minutes of the previous meeting, held on 25 April 2024, were agreed as a correct record.

4. **JOINT SCHEME OF DELEGATIONS TO OFFICERS**

Having considered this report at its previous meeting, the Group received an updated version of it which presented further revisions to the proposed draft Officer Scheme of Delegations, set out at Appendix 1, for members' deliberation. The report also presented a revised Proper Officer Scheme, set out at Appendix 3, which should be read in conjunction with the Officer Scheme of Delegation. The

purpose of the revised Scheme of Delegation and Proper Officer Scheme was to seek to align decision-making across the two Councils where possible.

In response to questions raised at the previous meeting of the Group, members were advised that:

- Salaries could be locally determined and this would be reflected in the Scheme.
- There was a limited amount of discretion in respect of setting service charges within the HRA as the Councils were merely recovering funding due to them by law.
- Although the Senior Governance Officer had been requested to review the definition of 'highways' in subsection 3.8.5, a subsequent discussion with the relevant Assistant Director had revealed that this delegation was no longer relevant and should be deleted from the Scheme.

The Scheme had been amended to reflect the changes requested by the Group at its last meeting and subsequent modifications requested by officers as follows:

Delegation 1.4.15

The Group agreed the request from an officer to delete the word 'routinely' from this delegation to avoid the requirement to notify ward councillors on every occasion that the delegation was exercised which could become cumbersome for both parties. It was felt that the term 'where appropriate' should apply to both notifying and consulting ward councillors.

Delegation 2.1.8

This suggested change featured the addition of wording to delegate authority to the Head of Paid Service to lead the pay negotiations with the Unions and agree the annual staff salary increase. As there was reluctance for WBC's Joint Negotiating Committee (JNC) to be abolished, it was

requested that this delegation be deferred for the time being to enable the Leader of that Council to consult with Executive colleagues in this regard. The Senior Governance Officer undertook to explore the related implications for the JNC.

Delegation 2.3.4

The Group indicated its acceptance of the additional wording requested by the relevant Assistant Director to specify that the delegation concerning the sale of land and buildings held in the HRA up to 0.2 hectares in area which were less than £200,000 referred to all tenures, whether leasehold, freehold or shared ownership.

Delegation 2.5.9

With regard to the inclusion of properties on the List of Assets of Community Value, it was confirmed that whilst the management of the List sat within the Planning function, the determination of applications to join the List was the responsibility of the Legal team with the Head of Paid Service having the authority to decide related appeals. It was agreed that this function be undertaken by the Legal team at both Councils.

Delegation 2.5.13

Attention was drawn to the misspelling of the word 'statutory' in this delegation. The Group indicated that it was content with the inclusion of any statutory increases and financial limits specified in delegations to officers, Procurement Procedure Rules or Financial Procedure Rules.

Delegation 2.5.18

It was agreed that the words 'and car loans' be added to this delegation which concerned the determination of the local average interest rates for local authority mortgages.

Delegation 3.1.1

The Group expressed its approval of this delegation relating to the exercise of the Council's functions relating to all housing and homelessness functions in accordance with all relevant legislation and policies of the Council.

Delegation 3.1.8

It was agreed to add the words 'or where other need for possession has arisen' to this delegation regarding the taking of any necessary action to recover possession of a property where a tenant or leaseholder was in breach.

Delegation 3.1.9

It was noted that the year of the Housing Act 1985 would be added to this delegation which concerned any action in respect of the right to buy under this legislation.

Delegation 3.2.4

This delegation regarding agreeing service level agreements with voluntary organisations was expanded to include the taking of any action under the agreements. It was noted that 'GBH' should be corrected to 'GBC'.

Delegation 3.4.19

The inclusion of the additional wording 'including agreeing pre-planning application fees' had been requested to expand this delegation which sought to undertake an annual review of the pre-application charging regime and revise the fees if appropriate. As there was some confusion regarding the differentiation between the two references to pre-planning / application fees, the Senior Governance Officer undertook to look into the matter.

Delegation 3.5.9

It was agreed that the words 'and decide' be added to this delegation concerning the treatment of proposed neighbourhood development plans, neighbourhood

development orders, area designation requests from qualifying bodies and Neighbourhood Forum designation requests.

Delegation 3.5.11

In the interests of clarity, it was requested that the wording of this delegation be altered to refer to development plans.

Delegation 3.7.1

It was felt that the inclusion of the suggested additional wording in this delegation regarding the job role was beneficial. Attention was drawn to the lettering and it was suggested that the final 'T' should be 'V'.

Delegation 3.8.1

The reference to the Repairs and Maintenance Fund had been deleted as it no longer existed and had been replaced with the words 'within agreed budgets'. It was noted that this delegation referred to the corporate property portfolio and did not include property that was specifically the responsibility of other officers e.g. leisure centres, possibly where a contractor may have repair and maintenance obligations.

Delegation 3.8.3

This delegation, which concerned the acquisition and disposal of land and the granting of leases etc, did not relate to HRA residential leases. As there were no properties to which the Leasehold Reform Act applied, the associated reference would be deleted. The rationale behind the value limit of £200,000 was the threshold for a key decision, the amount of which was under constant review.

Delegation 3.8.5

There was a proposal to delete this delegation which referred to the exercise of the Council's powers affecting the design or

maintenance of highways as it was no longer applicable. It was advised that GBC, and presumably WBC, owned numerous parcels of land and private roads and confusion may have arisen by the reference to highways in this context. The Senior Governance Officer would explore this matter and ascertain whether some level of delegation should be retained in respect of private roads in the Councils' ownership.

Delegation 3.8.6

The Group accepted the proposed deletion of some wording in section (c) regarding land and premises held in the HRA and the request for further consultees being the relevant portfolio holder and Assistant Director / Joint Strategic Director.

Delegation 3.8.8

An additional consultee in the form the relevant Assistant Director / Joint Strategic Director - Place was sought.

Delegation 3.8.9

In the interests of clarity, it was agreed that the phrase 'on land formerly owned by the Council' be added in relation to restrictive covenants.

Delegation 3.8.13

It was proposed that the wording of this delegation be widened to refer to 'including and responding to statutory notices'.

Delegation 3.8.14

This delegation, which related to making applications for the provision of architectural and building surveying services to those bodies covered by the Local Authorities (Goods and Services) Act 1970, would be deleted as the Councils no longer provided those services.

Delegation 3.8.15

Deletion of this delegation, which related to the determination of all matters relating to the siting of bus shelters, bus stops, seats and other street furniture, was proposed as it was no longer required. The provision of bus shelters was the responsibility of Surrey County Council.

Delegation 3.8.18

The disposal of assets for less than the best consideration was a delegation to GBC only and was exercised within the parameters set out in the Assets Disposal Policy and in consultation with the portfolio holder, Joint Strategic Director of Finance and any other relevant Joint Strategic Director. There were numerous circumstances for disposing of assets for less than the best consideration in line with statutory guidance including charitable purposes and specific use of land required by the Council. It was confirmed that this delegation remained acceptable.

Delegation 3.9.13

It was proposed that the phrase 'and determine' be added to this delegation to facilitate a response to objections to the Off Street Parking Order, in consultation with the portfolio holder. Car parking charges were set as part of the budget process and it was noted that whilst there was a requirement to notify the public of increases in parking charges, there was no necessity to respond to objections in this respect. Amendments to Parking Orders tended to relate to the location of parking spaces. It was agreed that this delegation should exclude responding to complaints regarding parking charges.

Delegation 3.8.17

The phrase 'provided there is sufficient budget' be added to this delegation relating to taking all actions to alleviate flooding under the Water Management Acts, Water Act 1989 and Land Drainage Act 1991 relating to the Council's land

drainage functions.

Severance Payments

A further delegation to the Assistant Director of Organisational Development would be included in the Scheme to agree severance payments, in addition to statutory redundancy / early termination of employment payments, up to the sum of £20,000 within the Councils' agreed policy. The requirement for consultation with the Leader could be included. It was anticipated that such payments would be funded from the staffing budget as such redundancies may contribute to the efficiency of the service. As job roles changed it may become necessary to transfer this responsibility to other officers of equal seniority.

Proper Officer Scheme

The Senior Governance Officer explained that each Council was required to designate a Proper Officer for the purposes of some legislation. Additional Proper Officers and some changes to the Scheme were highlighted. Attention was drawn to a typographical error in the Criminal Justice & Police Act 2001 section on page 103 where the word 'seize' should be substituted for 'size'.

5. JOINT FINANCIAL PROCEDURE RULES

The Group considered a report which presented the proposed draft Financial Procedure Rules at Appendix 1. The purpose of the revised Rules was to align financial limits and procedures across the two Councils where possible. Also, it was good practice to keep the Financial Procedure Rules under review as they formed part of the Constitutions of the Councils. The opportunity had been taken to undertake a base level review of the Rules and simplify them to facilitate understanding.

Attention was drawn to Appendix 2 of the report which set out the main changes as highlighted below:

Rule 1.4 – Breaches of the Rules

Breaches of the Rules would now be reported to Committee as it was felt that councillors should be aware of breaches and consider the reason(s), such as a requirement for a change to the Rules for clarification.

Rule 1.5 – Code of Officer Conduct

This Rule needed to be clear that officers must follow all Council policies, schemes of delegation, financial procedure rules and contract procedure rules, and that failure to do so would be a disciplinary matter. As there were some differences between the codes, alignment was sought to provide clarity.

Rule 2.3(d) - Internal Audit Annual Report

As the responsibility to approve the Internal Audit Annual Report and receive reports from the Council's Internal Auditor was not included in the Terms of Reference of Guildford's Corporate Governance and Standards Committee, it was felt that it should be added.

Rule 4.3(j) – New Revenue Proposals

This Rule sought the preparation of a justification in respect of all new revenue proposals with a significant financial impact, risk profile or policy change. This would provide more visibility and clarity for Finance staff.

Rule 5.3 - Virements

Changes had been made to ensure that limits aligned across the Councils with the result that any virement with a value greater than £100,000 must be approved by the Executive to a limit of £500,000 and by Council for any greater amount. Full details of financial limits for officers were set out in Paragraph 42 of these Rules. It was noted that there was a typographical error concerning one of the references to the sum of £500,000 in Appendix 2.

Rule 6.2 – Supplementary Estimates

The wording ‘subject to their being no ongoing revenue implications for future years’ had been added to avoid the Councils becoming unintentionally committed financially for future years.

Rule 11.1 Materiality Limit

A Materiality Limit would be added Waverley’s Rules and set at £10,000 in line with Guildford and in accordance with a CIPFA guideline. It was explained that the Materiality Limit was the amount that was relevant in the accounts, particularly at the year end in the event that overspends over £10,000 occurred and required explanation to assist with monitoring budget lines.

Rule 15.1 – Lease Agreements

Lease agreements for Waverley would be limited to £1,000,000 in line with Guildford’s threshold. This limit was the whole life value of the lease and should offer a benefit to the Councils and not extend their borrowing limits. It was agreed that after the reference to the Executive in this paragraph, the words ‘subject to the existing budget limit’ be added.

Rule 16 – Internal Trading Activities

Wording in respect of trading units had been added to the Rules for both Councils and referred to trading within the Councils.

Rule 17.2 – Risk Management

It was noted that Waverley was obliged to implement the findings of an internal risk management audit in addition to policies and strategies.

Rule 22 - Insurance

As there were currently no financial limits set out in the Rules,

the Group agreed with the good practice suggestion that the Joint Strategic Director of Finance informed the relevant committees in the event that the total value of claims incurred during a financial year exceeded £200,000 in the classes of claims regarding employer liability, public liability, property, motor or other.

Rule 26 – Asset Disposal / Write-Off

As Waverley had no limit on debt write-off and the Joint Strategic Director of Finance was permitted to write-off debts to an unlimited amount, limits had been introduced and aligned to Guildford's limits.

Rule 34.1 – Imprest Accounts

For Guildford, the Joint Strategic Director of Finance was permitted to provide bank imprest (petty cash) accounts to meet minor expenditure on behalf of the Council of up to £100 per transaction. This limit would be applied to both Councils.

Rule 39.4 - Partnerships

This was a new section for Waverley and a strengthened section for Guildford concerning responsibility for approving delegations and frameworks relating to all partnerships and for reviewing the associated governance arrangements.

Rule 39.6 - Delegation of a Budget to a Partnership

As there was currently no delegation limit, the introduction of a limit, subject to approval by the Joint Strategic Director of Finance, up to £25,000 and in excess of this by the Executive, was suggested.

Rule 40.1 – Bidding for Grant Funding

All grant bids of up to £200,000 were subject to the prior approval of the Joint Strategic Director of Finance, who would make the application, in line with the key decision limit. No

grant application should increase revenue spending without an identified budget, and any grant for £200,000 or more would be approved by the Executive.

Rule 41.2 – Loans to Third Parties

Although loans could be provided by the Council to third parties, the delegation to officers would be deleted and the Executive would approve any such loans, in line with Waverley, with the exception of authorising car loans to officers.

The Group RESOLVED to recommend the revised Financial Procedure Rules to the Standards and General Purposes Committee (Waverley) and the Corporate Governance and Standards Committee (Guildford).

6. JOINT OFFICER EMPLOYMENT PROCEDURE RULES AND TERMS OF REFERENCE OF JOINT COMMITTEES

As part of the Group's current work programme to update the Constitutions of both Guildford and Waverley Borough Councils, a review of the Officer Employment Procedure Rules (OEPRs) had been undertaken and resulted in new OEPRs being adopted by both Councils in January 2024. However, as a consequence of subsequent changes to the senior management structure and operational arrangements, as outlined in the report before members, it had become necessary to amend the OEPRs to reflect these minor changes.

In addition, it had come to light that the reference in both Joint Committees' Terms of Reference to their respective memberships required a minor amendment to reflect the need for the Leader of Waverley's principal opposition group to be a member of both Joint Committees, subject to political balance requirements. The suggested wording to be added to the Terms of Reference of both Joint Committees in respect of Waverley's membership was 'subject to political balance rules'. Guildford's membership did not require this addition as the Council had not specified a wish for the Leader of its

principal opposition group to be a member of the Joint Committees, giving greater membership flexibility.

The Group noted the Monitoring Officer's intention to make the following minor amendments in accordance with her authority to update the Constitution to correct errors, reflect changes in legislation, or make amendments consequential upon changes to operational arrangements, subject to consultation with the lead councillor with responsibility for governance:

(a) Update the Officer Employment Procedure Rules, as set out in Appendix 1 to the report, and

(b) Correct the omission in the Terms of Reference of the Joint Governance Committee and the Joint Senior Staff Committee, as set out in paragraph 1.6 to the report.

7. JOINT PROTOCOL FOR SIMULTANEOUS MEETINGS

Councillors were advised that on occasions there may be merit in two separately constituted Committee or Executive meetings being held simultaneously at the same time in the same venue to enable the hearing of a wider debate, by way of consultation, and before each Committee made its decision. Although the Constitutional arrangements relating to each Committee meeting simultaneously applied and prevailed, this Protocol sought to provide guidance and a framework regarding the procedure for such meetings being held simultaneously and was unlikely to form part of the Constitution.

The concept of simultaneous meetings was intended to cover meetings in the same authority or across more than one council where there was common business between the committees / authorities to avoid duplication. Simultaneous meetings in one council could not be chaired by one chairman who was not a member of both or be treated as joint committees unless constituted in that form. In the event of the Collaboration and Transformation Programme progressing, there may be an increasing number of joint

committees where councillors from Waverley and Guildford Borough Councils saw the benefit in being able to meet simultaneously to determine wider joint business.

The Group was advised that it was envisaged that meetings of Guildford's Corporate Governance and Standards Committee and Waverley's Standards and General Purposes Committee would be held simultaneously at 6:00 pm on 1 July 2024 to consider the items discussed by the Group at this meeting. The simultaneous meetings would each have a separate agenda, chairman, votes and set of minutes. As there was concern that it was unlikely that this amount of business could be conducted within one hour before Waverley's traditional Standards and General Purposes Committee scheduled for 7:00 pm on the same evening, it was agreed that the simultaneous meetings would be extended to two hours to run from 6:00 to 8:00 pm. Once the business to be transacted at Waverley's traditional meeting was known, a decision could be made as to whether that meeting would be held at 8:00 pm or deferred to another date.

In this connection, members were informed that when meeting the following week, Guildford's Corporate Governance and Standards Committee would review that Council's membership of the Group for the current municipal year, which currently did not include any members of that Committee.

The Group RESOLVED to recommend to Waverley Borough Council's Standards & General Purposes Committee and Guildford Borough Council's Corporate Governance & Standards Committee that they recommend the adoption of the Joint Protocol for Simultaneous Meetings to each of their respective Councils.

8. JOINT PROTOCOL FOR COUNCILLOR AND OFFICER RELATIONSHIPS

The Monitoring Officer advised that both Guildford and Waverley possessed such Protocols, however, they were both in need of review and improvement.

The Protocol recognised that a good relationship based on mutual trust, respect, courtesy and impartiality between councillors and officers was essential for the smooth operation of the Councils. The document also governed the different roles and responsibilities of councillors and officers, making it clear that professional advice was provided by officers and decision-making ultimately lay with councillors. It set out expectations and provided a framework for how the two parties should work together.

A number of queries from both councillors and officers had been received in recent months regarding respective roles and responsibilities and how the two parties should engage to optimise their relationship to achieve the Councils' objectives. The revised Protocol would assist in this area.

Some related training would be provided in the form of two sessions for councillors on 8 July 2024 and subsequently for officers across both Councils. It was likely that the initial training would occur before the Protocol was finalised by the authorities, giving an opportunity for feedback before the document was adopted.

It was acknowledged that the Protocol, which was welcomed, would be similar to that of other councils as it was likely that the same factors applied.

As there were some discrepancies in references to job titles and officer positions in the Protocol, the document would be revisited to correct inconsistencies.

The Group RESOLVED to recommend that Waverley Borough Council Standards & General Purposes Committee and Guildford Borough Council Corporate Governance & Standards Committee recommend to each respective Council the adoption of the Joint Councillor / Officer Relationship Protocol into each respective Council's Constitution.

9. DRAFT WORK PROGRAMME

The Group considered its Work Programme and noted that although there were many green status actions which had been approved and adopted, it remained an ambitious Programme with amber actions now being pursued. Amber actions 11 to 14, namely, the Joint Scheme of Officer Delegations, the Joint Financial Procedure Rules, the Joint Contract Procedure Rules and Joint Scheme of Proper Officer Functions, were viewed as time critical priorities for adoption by the Councils in July 2024. It was also hoped that the Joint Councillor / Officer Relationship Protocol would be adopted in July.

The next action to be commenced related to decision-making as it was currently the greatest priority for both Councils. The Joint Scheme of Officer Delegations was the first step to be urgently followed by a review of the processes around decision-making at both councillor and officer levels. With regard to the councillor level, there was likely to be an increase in the amount of business being submitted to the Executive and the Executives of both Councils had expressed an interest in considering individual Executive member decision-making. Therefore, some related proposals would be prepared for consultation with the Executive and submission to this Group as they would involve a change to the Constitution. Decision-making at officer level would involve a review of the process to ensure transparency and require the development of an officer decision-making protocol which would be considered by this Group as it would form part of the Constitution. Related training would be provided for all officers.

The other aspect that was becoming urgent and was prioritised in the Work Programme was the review of the Terms of Reference of all committees. One of the recommendations within Guildford's Improvement Plan was to consider the introduction of a separate audit committee to balance the workload of its Corporate Governance and Standards Committee which currently dealt with audit and risk in addition to governance and standards.

It was confirmed that the Budget Council Procedure Rules was

an action included on the Work Programme.

The officers were thanked for their time and efforts in progressing the actions in the Work Programme to date. It was noted that other items of work may materialise and that the Programme was a living document which would be required going forward to fulfil the need to keep the Constitution under constant review in response to changes in the law and Council structures.

10. DATE OF NEXT MEETING

It was noted that the next scheduled meeting of the Group was at 5:00 pm on Monday 29 July. However, to enable the Joint Contract Procedure Rules to be considered by the Group prior to being submitted to the simultaneous standards committee meetings and then the Council meetings for adoption during the July cycle of meetings, it was agreed that an earlier meeting be held at 5:00 pm on Thursday 20 June.