

Guildford Borough Council

Report to: Council

Date: 16 April 2024

Ward(s) affected: All

Report of: Joint Strategic Director of Legal & Democratic Services

Author: John Armstrong, Democratic Services & Elections Manager

Tel: 01483 444102

Email: john.armstrong@guildford.gov.uk

Lead Councillor: Merel Rehorst-Smith

Tel: 01483 610581

Email: merel.rehorst-smith@guildford.gov.uk

Report Status: Open

Review of Executive Advisory Boards and Overview & Scrutiny

1. Executive Summary

- 1.1 The Executive Advisory Boards (EABs) and the single Overview & Scrutiny (O&S) Committee were established at Guildford in 2016, following a review of the Council's internal governance arrangements in 2015. The two EABs and the O&S Committee each comprise of 12 non-Executive councillors.
- 1.2 The EABs were based on a model adopted at that time by two district councils in Kent. In essence, their purpose is to increase backbench member involvement in significant Executive decisions, by (as their names suggests) advising the Executive at an early stage on the formulation and development of policies and major projects that will help to deliver the Council's strategic priorities within its Corporate Plan.

- 1.3 When the new arrangements were introduced, much of the work of the then existing two O&S Committees (including policy development) transferred to the EABs and the new O&S Committee was responsible primarily for post-decision review of Executive decisions and wider external scrutiny, including task and finish group investigations.
- 1.4 The remits of the EABs were originally aligned to the themes of the Corporate Plan in place at the time of their establishment. Latterly, they have been linked to the corporate management structure of the Council (Resources EAB and Community EAB).
- 1.5 The EABs also meet jointly to consider matters of significant mutual interest, including consideration of draft budget papers each year. They have no substantive decision-making powers. The EABs and O&S Committee meet in public, and all meetings are webcasted, and their proceedings are subject to Part C of the Council Procedure Rules (relating to committees), Public Speaking Procedure Rules, Access to Information Procedure Rules, and (for O&S) the Overview and Scrutiny Procedure Rules as set out in Part 4 of Guildford's Constitution.
- 1.6 The detailed terms of reference of the EABs and the O&S Committee are set out in Appendices 1 and 2 to this report.
- 1.7 Since May 2023, the EABs have met on just three occasions (two of which were joint meetings of the two EABs) with most scheduled meetings being cancelled due to lack of business, or due to the business that had been scheduled on their work programme being postponed for a number of reasons.
- 1.8 At its informal briefing on 14 February 2024, the Executive considered a briefing note on the future of the EABs and their role within the Council's democratic governance processes, particularly in the context of the O&S function. The chairs and vice-chairs of the EABs and the O&S Committee were invited to the briefing meeting to participate in the discussion and to offer their views. The chair and vice-chair of the

O&S Committee and one of the EAB vice-chairs attended and were generally supportive of the proposal in this report.

1.9 This matter was also discussed at the meeting of the Joint Constitutions Review Group (JCRG) held on 28 March 2024. The JCRG supported the proposals below.

1.10 The Corporate Governance & Standards Committee will consider the proposals at its special meeting to be held on 11 April 2024. The Committee's recommendations in this regard will be reported to the Council on the Order Paper.

2. Recommendation to Council:

2.1 That the proposal to disband the two Executive Advisory Boards and the single Overview and Scrutiny Committee and to replace them with two new Overview and Scrutiny Committees (Option 3 referred to in this report), be adopted for implementation with effect from the 2024-25 municipal year.

2.2 That the draft Terms of Reference of the proposed two new Overview and Scrutiny Committees, as set out in Appendix 3 to this report, be adopted.

3. Reason for Recommendation:

3.1 To ensure that the Council is able to demonstrate that it discharges its overview and scrutiny function more effectively.

4. Exemption from publication

4.1 No part of this report is exempt from publication.

5. Purpose of Report

5.1 The purpose of this report is to invite the Council to consider options in respect of the future of the EABs and the single O&S Committee and their role within the Council's democratic governance processes, particularly in the context of the O&S function.

6. Strategic Priorities

- 6.1 The recommendations in this report support Guildford's value of being "open and accountable in our decision-making" and commitment to democratic and participative governance.

7. Background

- 7.1 Following a review of the Council's governance arrangements in 2015-16, a key element of the changes was the decision to streamline O&S and introduce EABs. Two EABs were intended to maximise backbench pre-decision involvement in significant Executive decisions, including budget proposals, along with freedom to undertake in-depth task group work.
- 7.2 Much of the work of the then existing two O&S Committees was transferred to the EABs and the new O&S Committee was responsible primarily for post-decision review of executive decisions and wider external scrutiny, including task and finish group investigations. The 2015 governance changes included an expansion of the Corporate Governance & Standards Committee's budget monitoring and treasury management roles, with backbench member input on budget setting moving to the Joint EAB. Consequently, the O&S Committee undertakes no finance scrutiny.
- 7.3 The EABs comprise of non-Executive councillors and have no decision-making powers. As stated above, they were created to increase backbench involvement in decision-making by advising the Executive at an early stage in respect of the formulation and development of policies and major projects that would assist with the delivery of the Council's Corporate Plan priorities. They operate alongside O&S in this regard undertaking a 'pre-decision' scrutiny role.
- 7.4 Very few other councils have adopted such an arrangement.
- 7.5 The remits of the EABs were originally aligned to the themes of the Corporate Plan in place at the time of their establishment. Latterly, the Boards have been linked to the corporate management structure

of the Council and the authority agreed in May 2023 to simplify their remits to reflect the current Joint Management Team structure.

- 7.6 The current terms of reference of the EABs (see Appendix 1) provide that the relevant Lead Councillor is expected to attend EAB meetings in respect of business for which they hold portfolio responsibility, and would normally introduce or present matters, with officer support, for discussion at meetings and engage actively in a dialogue with the EABs in respect of those matters.
- 7.7 Up to May 2023, bi-monthly work programme meetings were held involving the chairmen and vice-chairmen of the two EABs and of the O&S Committee, the Leader / Deputy Leader of the Council and one of the directors. This approach facilitated a planning opportunity and dialogue between the Leader, director and the chairmen and vice-chairmen to inform the work programmes of the EABs and the O&S Committee, including a review of the Forward Plan. However, a review of the Forward Plan to populate the EABs' work programmes was realistically too late in the process for the EABs to undertake the function of early policy development. Under the previous administration, the introduction of the mandate project management approach did offer the EABs an opportunity to engage at an early stage on some project initiatives. Since May, however, work programme meetings have not been held leading to a limited dialogue between the Executive and EABs. The recent absence of work programme meetings has been due mainly to the Council's financial issues leading to work in respect of project mandates being set aside, staff capacity issues and the need to focus on other priorities.
- 7.8 Consequently, there has been a scarcity of items scheduled for the EAB work programme, which led to the subsequent cancellation of meetings. The EABs have met on only three occasions collectively to date during the 2023-24 municipal year. In addition to the scaling back of new policy development, as mentioned above, due to either financial constraints or the greater focus on the collaboration, other factors such as insufficient interaction between the EABs and the Executive and officers; slippage in respect of the few reports that had been programmed for consideration by EABs; and a possible lack of

understanding of the role and purpose of EABs, has led to limited engagement with EABs and the advice they can offer.

- 7.9 Significantly, from a governance viewpoint, EABs were established to perform part of the O&S function, which with hindsight may have been better placed with the O&S Committee, avoiding possible role confusion and duplication. The Executive has been previously advised that it is not utilising the Council's scrutiny function (whether via EABs or O&S) in the most effective way to support its work¹.

Previous reviews of the effectiveness of EABs

- 7.10 Since 2016, the Council has reviewed the effectiveness of EABs on two occasions. The first in 2018 concluded in establishing a task and finish group to review the existing governance arrangements in relation to the EABs and to discuss available options to improve those arrangements, including a proposal for a single EAB. The task and finish group reported its findings to Council in February 2019. The Council agreed to retain the existing arrangement of the two EABs pending a further review to ascertain whether changes to the EAB structure were required.

- 7.11 In October 2020, the Council agreed:

- To retain the two EABs with the flexibility of having a balanced inter-changeable remit as appropriate in respect of agenda items.
- To continue arrangements for the EABs to meet jointly when significant and wide-ranging agenda items, such as budgetary matters, are under consideration.
- To expect relevant Lead Councillors to proactively attend EAB meetings and EAB Chairmen and/or Vice-Chairmen to attend Executive meetings to elaborate on advice given and to receive feedback to facilitate a closer two-way working relationship between the Executive and EABs.

¹ 12 July 2023 Executive Briefing

- To give EABs free range to select their own review topics on which to advise the Executive, including the ability to establish task groups where necessary (subject to available resources).
- To ensure that the EABs receive items sufficiently in advance of determination by the Executive in order to have the opportunity to advise on, and influence, its decisions from a broader knowledge base.

O&S Considerations

- 7.12 In most local authorities, the scrutiny function sits with the O&S Committee(s). At Guildford, there are now a variety of committees/groups attempting scrutiny and roles have blurred. The O&S Committee has become less engaged in the business of the Council and arguably not performing its proper role.
- 7.13 In addition, a distance in the relationship between O&S and the Executive has perhaps developed and the Executive has not utilised O&S to undertake work on its behalf in terms of policy development. Similarly, there has been a perceived lack of Executive buy-in to the concept of EABs, arguably evident in an eleventh-hour decision for the Boards not to be chaired by or include membership of a Lead Councillor² and continuing difficulties in developing work schedules.
- 7.14 Prior to the introduction of EABs, O&S:
- challenged budget proposals (including through a finance task group – this task group approach was adopted by the EABs to help with its finance role, although the Joint EAB Budget Task Group last met in November 2019 in relation to the 2020-21 budget proposals)
 - scrutinised and challenged decisions relating to major projects and upcoming Executive decisions,

² [Appointments to the EABs and O&S Committee and Adoption of a Protocol for the Operation of the EABs, Full Council, December 2015]

- involved backbench members in fundamental service reviews, and had a better recognised role in policy development at the Council.

7.15 Since the Council's 2015-16 governance changes, the focus of the O&S Committee has been increasingly one of post-decision review and holding the Executive to account for past decisions. The main challenge for O&S at Guildford is its work programme and has been for some time. Significant key decisions and other items on the Forward Plan are (or were) directed exclusively through the EABs. Very few items were directed to O&S for policy development or scrutiny and O&S Committee members have focused on reviewing and challenging past performance, holding Lead Councillors to account through question sessions, and undertaking external scrutiny (e.g., food poverty or mental health service provision).

Options

7.16 At its informal briefing on 14 February 2024, the Executive considered a briefing note on the future of the EABs and their role within the Council's democratic governance processes, particularly in the context of the O&S function. The chairs and vice-chairs of the EABs and the O&S Committee were invited to the briefing meeting to participate in the discussion and to offer their views.

7.17 The briefing note contained the following options:

1. To retain the EABs (and O&S Committee) as currently structured, with a resumption of work programme meetings to establish robust individual work programmes for each EAB, and the O&S Committee.
2. To disband the existing EABs, establish a single EAB, and retain the existing O&S Committee, with a resumption of work programme meetings to establish a robust individual work programme for the single EAB and O&S.
3. To disband the existing EABs and O&S Committee and establish two new O&S Committees.

4. To disband the existing EABs and retain the existing O&S Committee and establish two O&S Sub-Committees, one with a remit on “resources” and the other with a remit on “services”.
- 7.18 There was broad consensus that Option 3 above should be pursued. However, there was no discussion as to how the two new O&S Committees should be structured. This could, for example, divide the committees between substantive topic areas (e.g. “people” and “places”), or by function (e.g. “policy development” and “performance”, or “resources” and “services”).
 - 7.19 As Waverley currently has two O&S Committees based on “resources” and “services”, which are similar to the existing remits of the EABs, and given the stated desire to align the two councils’ Constitutions as far as practicable, it is suggested that the proposed new O&S Committees for Guildford should follow the Waverley model (see **Appendix 3**).
 - 7.20 Any changes that are proposed to the EABs, for example, to alter their terms of reference, or disband the Boards and replace them with an alternative, require approval by full Council. The proposals have been considered initially by the Joint Constitutions Review Group (28 March 2024), and will be considered by the Corporate Governance & Standards Committee (at its special meeting on 11 April 2024). The establishment of O&S Sub-Committees (referred to in Option 4), including their terms of reference, would require the approval of the O&S Committee.

8. Equality and Diversity Implications

- 8.1 The Council is responsible for having due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning the Council’s governance arrangements.

9. Financial Implications

- 9.1 Under the current scheme of allowances for councillors at Guildford, special responsibility allowances (SRAs) are payable to the chairs of the O&S Committee and the two EABs as follows:

- O&S chair: £6,677 p.a.
 - EAB chairs: £8,348 p.a. (£4,174 each)
- Total: £15,025 p.a.

If the Council approves the proposal to disband the two EABs and the O&S Committee and to replace them with two O&S Committees, there would be a small reduction of £1,671 p.a. in the cost of these SRAs (£6,677 x 2 = £13,354 p.a.)

- 9.2 If the Council agrees that the new O&S Committees should each be permitted to appoint two non-voting co-optees, each of the co-optees would be entitled to a small co-optees' allowance, which is currently £419 p.a.
- 9.3 There are no other financial implications arising from this report. Any proposals, projects, or suggestions from the groups with financial implications will either be contained within approved budgets or considered as part of the Service and Financial Planning cycle.

10. Legal Implications

- 10.1 Section 9F (1) Local Government Act 2000 requires councils operating executive arrangements to include provision for the appointment of one or more overview and scrutiny committees.
- 10.2 Section 9F (2) confers a number of statutory powers to overview and scrutiny committees, including the ability:
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
 - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
 - (c) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive, and

- (d) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area.

11. Human Resource Implications

- 11.1 There are no direct human resource implications arising from any of the options contained in this report. The management of the business of the existing EABs and O&S Committee is undertaken within the Democratic Services team. Whilst, on the face of it, there would be a net reduction of one committee under the recommended Option 3, it is anticipated that the team's workload would not materially change with the establishment of two O&S Committees, with their own remits and ability to undertake detailed reviews by task and finish groups.

12. Background Papers

None

13. Appendices

Appendix 1: Terms of reference of the Executive Advisory Boards

Appendix 2: Terms of reference of the Overview & Scrutiny Committee

Appendix 3: Draft Terms of Reference of the proposed two new Overview & Scrutiny Committees