

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

11 April 2024

* Councillor Phil Bellamy (Chairman)
Councillor Bob Hughes (Vice-Chairman)
* Councillor Joss Bigmore
Councillor Stephen Hives
* Councillor James Jones
* Councillor George Potter
Councillor James Walsh

Independent Members:

Murray Litvak

Parish Members:

* Julia Osborn
* Simon Schofield
* Tim Wolfenden

*Present

The Leader of the Council, Councillor Julia McShane, the Lead Councillor for Finance & Property, Councillor Richard Lucas, the Lead Councillor for Commercial Services, Councillor Catherine Houston, the Lead Councillor for Community and Organisational Development, Councillor Carla Morson, the Lead Councillor for Regulatory & Democratic Services, Councillor Merel Rehorst-Smith, and the Lead Councillor for Planning, Councillor Fiona White were also in attendance.

Councillors Ruth Brothwell, Yves de Contades, Jo Shaw, and Catherine Young were in remote attendance.

CGS79 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from Councillor Bob Hughes, for whom Councillor Richard Mills OBE substituted, Councillor Stephen Hives, for whom Councillor Vanessa King substituted, and from Councillor James Walsh, for whom Councillor Howard Smith substituted.

CGS80 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

CGS81 MINUTES

The minutes of the meeting held on 13 March 2024 were confirmed as a correct record. The chairman signed the minutes.

CGS82 ACTION TRACKER

The Committee noted that the decision and action tracker had been introduced to monitor progress against the decisions and actions that the Committee had agreed, which would be kept up to date for each meeting. When decisions/actions were reported as being 'completed', the Committee would be asked to agree to remove these items from the tracker.

The Committee

RESOLVED: That the decision and action tracker, including the update on the Supplementary Information Sheet circulated at the meeting, be noted and that the actions reported as being completed be removed from the table.

CGS83 ANTI-FRAUD & CORRUPTION POLICY AND STRATEGY

The Committee noted that the Council encouraged staff and others to report any cases of suspected wrongdoing or misconduct, illegal acts, or failure to act within the Council, as part of its commitment to act with integrity and openness in the best interests of its residents and communities. To govern any such disclosures, the Council had an Anti-Fraud and Corruption Policy.

That Policy had recently been reviewed and updated and had been submitted to this Committee for comments, prior to submission to the Executive for approval. A copy of the revised Policy was appended to the report submitted to the Committee. Once adopted, the revised Policy would be made available to councillors, officers, and the public via the website.

During the debate on this matter, the following points were made:

- Clarification was requested in respect of paragraph 5.1 of the Anti-Fraud and Corruption Policy, which stated that the Policy and the various policies referred to in the annexes would be monitored and reviewed biennially, but the Anti Bribery Policy (Annex 1) had stated that that Policy would be reviewed annually.
- As the draft Anti-Bribery Policy did not actually define "bribery", it was suggested that it should refer to the statutory definition set out in the Bribery Act 2010.
- There was an apparent discrepancy in para 3 (b) of the Fraud Prosecution Policy (Annex 3) where it was stated that the Council must be satisfied that there is sufficient evidence to provide a prospect of conviction, but in para 3 (f) it was stated that the decision to prosecute ultimately rested with the Police and Crown Prosecution Service. It was suggested that the Policy might be clarified so as to state that the Council would make that decision in civil matters, or merely to state in para 3 (b) "*notwithstanding para 3 (f)*".

- Noting that paragraph 1.4 of the Anti-Fraud Policy Statement within the Anti-Fraud and Corruption Policy included councillors, clarification was sought as to whether paragraph 1.3 should also specifically include councillors to make it clear that the Policy also applied to them.
- In response to a request to highlight any material changes between the existing Anti-Fraud and Corruption Policy and the proposed revised policy, it was noted that the existing policy had been produced in 2016-17, so the revised policy was well overdue. The revised policy had incorporated more recent changes in the law.
- Request that the Fraud Response Plan referred to in the Counter Fraud Policy (Annex 2) be included as an appendix to that policy.
- Suggestion that section 6 of the Anti-Fraud and Corruption Policy (Training) should make it explicit that training would be offered not only to employees but also to temporary workers to ensure that everyone was aware of their obligations. In response, the offer of appropriate training would be communicated to staff and temporary workers.
- In response to a request, in relation to the strategic approach to fraud, as to whether there was any good practice that that we had managed to share from or with other authorities, officers confirmed that the Council had sought to align the proposed revised Anti-Fraud and Corruption Policy with Waverley's. It was also noted that the Council's contracted internal audit provider, Southern Independent Audit Partnership, often shared on a regular basis, any learning points arising from fraud investigations.

The Committee

RESOLVED: Subject to the comments raised during the debate on this matter referred to above, to commend to the Executive the adoption of the revised Anti-Fraud and Corruption Policy, as set out in Appendix 1 to the report submitted to the Committee, together with the accompanying annexes:

Annex 1 – Anti Bribery Policy

Annex 2 – Counter Fraud Policy

Annex 3 – Fraud Prosecution Policy

Annex 4 – Anti Money Laundering Policy

Reasons:

- Guildford Borough Council operated a 'zero tolerance' approach towards fraud and corruption and would use the full range of sanctions available against any individual or organisation found to be committing fraud. Every pound taken by theft or fraud reduced the Council's ability to provide services to the people who need them the most.

- It was right and proper to uphold the principle of transparency to encourage individuals to make any disclosures and raise any concerns where they suspect wrongdoing.
- It was important that the Council had a Policy in place to govern and investigate issues related to fraud and corruption and that such Policy was kept under regular review.
- Whilst the adoption of the Policy was within the remit of the Executive, this Committee had a role in monitoring the operation of the Policy, and there was merit in the Committee having the opportunity to consider any proposed revisions to the Policy and being able to provide feedback by way of consultation to the Executive.

Action	Officer to Action
To ensure that the Executive is made aware of the Committee's comments in respect of the Policy when it is considered.	Solomon Akuffo

CGS84 REVIEW OF THE CONSTITUTION: PROPOSED NEW COUNCIL PROCEDURE RULES

The Committee noted that, as part of the current work programme to update the constitutions of both Guildford Borough Council (GBC) and Waverley Borough Council (WBC), the Joint Strategic Director of Legal and Democratic Services had prioritised the Council Procedure Rules as a high priority, requiring urgent attention.

After reviewing both sets of Council Procedure Rules, it was apparent that there would be little benefit in amending both sets of the current rules. Officers had therefore recommended the introduction of a set of new Council Procedure Rules for both councils, using examples of good practice, based on the statutory framework.

The work to review the Council Procedure Rules for both GBC and WBC had been extensive, and had been presented initially to the Guildford and Waverley Joint Constitutions Review Group (JCRG) for consideration.

A key theme in the proposed new Council Procedure Rules was to clearly identify who had the authority and responsibility to discharge functions at council meetings, including proper officers, and the correct procedures to be followed, including appropriate communication channels.

Members of the group welcomed the proposed new Council Procedure Rules. The group suggested minor grammatical amendments and amended rule 15.5 (Rules of Debate for Council: Content and Length of Speeches) to allow the proposer of a motion 6 minutes for a speech and 4 minutes for the right of reply and all other speeches in the debate.

Subject to the suggested amendments, the JCRG approved the recommendation to refer the new Council Procedure Rules, to both this Committee and Waverley's Standards & General Purposes Committee on 8 April with a further recommendation to refer the new Council Procedure Rules to full council for adoption into the Constitution.

At its meeting on 8 April 2024, Waverley's Standards & General Purposes Committee had recommended the adoption of the proposed new Council Procedure Rules to Waverley's full Council meeting subject to a number of minor amendments details of which were set out in the Supplementary Information Sheet circulated at the meeting. Although there were some slight differences between the GBC and the WBC Council Procedure Rules to incorporate nuances, for the most part the rules for both councils were proposed to be aligned.

During its debate on this matter, the following points were raised by the Committee:

- It was noted that the Council's petition scheme was currently included separately in the Public Speaking Procedure Rules. Given that the proposed new Council Procedure Rules included procedures for public participation, concern was expressed as to whether it was intended to continue with a petition scheme. The Joint Strategic Director of Legal & Democratic Services confirmed that the petition scheme would still be included within the Council's Constitution, albeit separate from the Council Procedure Rules. The councils' petition schemes were also scheduled for review by the Joint Constitutions Review Group (JCRG) in due course.
- It was noted that Appendix 1 to the report had indicated that Waverley currently permitted the public to ask "informal questions", and that it was proposed to remove this provision in the proposed new Council Procedure Rules. A committee member suggested that such provision should be retained and re-introduced into the proposed new Council Procedure Rules in order to encourage greater public engagement. In response, the Joint Strategic Director of Legal & Democratic Services noted that there was some difficulty in defining what was meant by informal questions and so the new Council Procedure Rules had clarified the rules by defining the scope of questions and the timescale by which they should be submitted,

which should still encourage public engagement. Another committee member argued that current arrangements for the public to give notice of questions worked well and greatly reduced the likelihood of vexatious or defamatory questions, and disruptive behaviour. Furthermore, it was argued that having rules for formal questions alongside rules for informal questions would be inconsistent and impractical. Another committee member noted that maintaining current rules requiring notice of questions ensured that the questioner receives a more considered, and better quality, answer in response.

- However, the Joint Strategic Director of Legal & Democratic Services confirmed to the meeting that this provision was not currently included in Waverley's Council Procedure Rules.
- It was noted that it was being proposed that there should be a time limit of 30 minutes for dealing with motions on notice on the Council agenda and that, in the past, the Council had spent considerably longer than 30 minutes debating a single motion. The Joint Strategic Director of Legal & Democratic Services drew the Committee's attention to the provision within the Council Procedure Rules to move their suspension, which would allow the Council to agree to extend any such time limit for that meeting if it was felt necessary to deal with the motions on the agenda. However, it was suggested that, as there were already provisions elsewhere in the Council Procedure Rules to move closure motions, for example, to take an immediate vote on a motion when it was felt that a motion had been debated fully, there should be no time limit for dealing with motions on notice within the Procedure Rules.
- In response to a query as to the urgency of reviewing Council Procedure Rules, the Joint Strategic Director of Legal & Democratic Services reminded the Committee that both councils had agreed to set up the JCRG, which allowed early engagement of members from both councils in the constitutional review via the Review Group. Furthermore, neither council's constitution had been reviewed for some time and it had been noted there were significant gaps, omissions and inconsistencies that required urgent action, for example the recent review and adoption by both councils of Officer Employment Procedure Rules. Further reports on the constitutional review arising from the work of the JCRG would be coming to Committee and full Council in the next few months.

The Committee

RESOLVED: To endorse the following recommendation to Council in respect of this matter:

“That the proposed new Council Procedure Rules, as set out in Appendix 2 to the report, be adopted into the Constitution, subject to:

(a) the following minor amendments, as suggested by Waverley’s Standards & General Purposes Committee:

- CPR 2.3 - Election of the Mayor and Appointment of the Deputy Mayor (page 32 of the Council agenda): Amend the second paragraph so that it reads as follows:

“The current Mayor will preside over the election of their successor, unless they are unable to do so, in which case the current Deputy Mayor will do so. If the Deputy Mayor is ineligible to do so, due to the principle that a Councillor should not preside over their own election, the Monitoring Officer will **call for a motion that a non-executive Member of the Council take the chair to** preside for the first agenda item of business to Elect the Mayor. In the case of an equality of votes, the person presiding at the meeting, ~~provided they are a councillor,~~ shall give a casting vote in the case of an equality of votes”.

- CPR 4.2 – Business at Extraordinary Meetings (page 37 of the Council agenda): Amend paragraph (vi) so that it reads as follows:

“(vi) consider the items of business for which the extraordinary meeting has been called, **and deal with any business remaining from the last Council meeting.**”

- CPR 15.12 - Motions which may be moved during debate (page 52 of the Council agenda): Amend first paragraph so that it reads as follows:

“When a motion is under debate, no other motion may be moved except the following procedural **or closure** motions, which may be moved by a member, without comment, at the end of a speech by another member.”

- CPR 25.4 – Leader of the Council (page 62 of the Council agenda): Amend the first paragraph so that it reads:

“The Leader of the Council, or Deputy Leader in their absence, may attend any meeting of a Committee and speak **once** on any item under consideration as of right, unless they have a relevant interest in the matter that would preclude them from being present.”

(b) no time limit being included in Council Procedure Rule 13 for dealing with motions on notice at Council meetings.

Reasons:

- Approval of the new Council Procedure Rules will ensure that both Guildford and Waverley Borough Councils have adequate arrangements in place to deal with the conduct of business at council meetings in an effective and efficient manner that meets statutory requirements.
- Approval of the new Council Procedure Rules will be a significant milestone in the process of aligning the constitutions of GBC and WBC where it is appropriate to do so.

Action	Officer to Action
To refer the Committee’s comments and recommendation in respect of the proposed new Council Procedure Rules Policy are considered by full Council on 16 April 2024.	John Armstrong

CGS85 REVIEW OF EXECUTIVE ADVISORY BOARDS AND OVERVIEW & SCRUTINY

The Committee considered a report on the review of Executive Advisory Boards (EABs) and Overview & Scrutiny (O&S). It was noted that the EABs and the single O&S Committee had been established at Guildford in 2016, following a review of the Council’s internal governance arrangements in 2015.

The EABs were based on a model adopted at that time by two district councils in Kent. In essence, their purpose was to increase backbench member involvement in significant Executive decisions, by advising the Executive at an early stage on the formulation and development of policies and major projects that would help to deliver the Council’s strategic priorities within its Corporate Plan.

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.

The remits of the EABs had originally been aligned to the themes of the Corporate Plan in place at the time of their establishment. Latterly, they had been linked to the corporate management structure of the Council (Resources EAB and Community EAB).

The EABs also met jointly to consider matters of significant mutual interest, including consideration of draft budget papers each year. They had no substantive decision-making powers.

The Committee was informed that, since May 2023, the EABs had 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.

At its informal briefing on 14 February 2024, the Executive had 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 had been 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 a proposal to disband the EABs and the single O&S Committee and to replace them with two O&S Committees.

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

During its debate on this matter, the following points were raised by the Committee:

- The reason for introducing the EABs had been a politically driven decision as there had been a public debate around the time of the 2015 local elections as to whether the Council should move from the Leader and Cabinet Executive arrangements to a committee system, which was followed thereafter by a governance referendum in 2016 as to whether the Council should move to a Directly Elected Mayor and Cabinet Executive arrangements. The present EAB/O&S structure was essentially a hybrid arrangement mixing the Leader and Cabinet Executive arrangements with a committee system. It was suggested that the EABs had been an eight-year experiment which had not worked, and would never work as they undermined the role of overview and scrutiny. EABs were intended to be forward looking and, by default, overview and scrutiny was retrospective. Furthermore, in practice EABs had been overly reliant on the Executive to provide them with work, and had limited autonomy. The proposed model of

two Overview and Scrutiny Committees each of which able to focus on different areas of the Council's operations, would enable them to operate with full autonomy and in accordance with their statutory powers.

- It was also suggested that the Executive Working Groups, which had been established recently, had been performing the EABs' role more effectively than the EABs themselves.
- It was suggested that the operation of the new Overview and Scrutiny Committees should be reviewed after 12 months.
- Concern as to whether all of the "general terms of reference" of the current Overview and Scrutiny Committee referred to in Appendix 2 to the report had been included in the proposed terms of reference for the two new Overview and Scrutiny Committees referred to in Appendix 3. In response, the Democratic Services & Elections Manager would check to ensure that the proposed terms of reference for the two new Overview and Scrutiny Committees include any of the existing general terms of reference that had not been included.
- Query as to whether the various factors referred to in the report that had been attributed to the failure of the EABs would continue with the introduction of the proposed two new Overview and Scrutiny Committees. In response, the Democratic Services & Elections Manager explained that there had to be much improved communication between the Executive and Overview and Scrutiny, and proper engagement with Overview and Scrutiny by the Executive in terms of commissioning work on policy development, and Overview and Scrutiny being actively involved in the scrutiny of finance.
- The proposed change to two Overview & Scrutiny Committees had to be meaningful and properly resourced. There also had to be a cultural change in order to achieve the commitment from both O&S Committee members and the Executive to make the new arrangements work. By getting these arrangements in place should result in better, and more informed decision-making. In response, the Democratic Services & Elections Manager suggested that the first priority should be work programming and starting the formal dialogue between the Executive and Overview & Scrutiny, with the support of senior management, to establish how Overview and Scrutiny can assist in policy development to inform Executive decision-making on the Council's corporate projects and priorities. The importance of further Overview and Scrutiny training was also emphasised.

- It was noted that, unlike EABs, Overview and Committees had statutory powers which they could use to investigate matters of their choosing, and to make recommendations as appropriate to decision-makers.

The Committee

RESOLVED: To endorse the following recommendation to Council in respect of this matter:

- “(1) That the proposal to disband the two EABs and the single O&S Committee and to replace them with two new Overview and Scrutiny Committees (Option 3 referred to in the report), be adopted and implemented with effect from the 2024-25 municipal year.
- (2) That the draft Terms of Reference of the two proposed new Overview and Scrutiny Committees, as set out in Appendix 3 to the report submitted to the Committee, be adopted, subject to ensuring that the proposed terms of reference include any of the general terms of reference for the existing Overview & Scrutiny Committee that had not been included.
- (3) That the operation of the new Overview and Scrutiny Committees be reviewed after 12 months”.

Reason:

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

Action	Officer to Action
To refer the Committee’s comments and recommendation in respect of the proposals are considered by full Council on 16 April 2024.	John Armstrong

CGS86 WORK PROGRAMME

The Committee considered its updated 12 month rolling work programme.

The Committee were reminded that an independent review of governance across the Council had been commissioned by the former Chief Executive. The review had been conducted by SOLACE and the Committee was asked to note that, following consultation with the chairman, a report on the outcome of the review, including findings and recommendations, would be submitted to this Committee at a special meeting on Wednesday 15 May 2024 at 7pm.

The Committee

RESOLVED:

- (1) That the updated 12 month rolling work programme, as set out in Appendix 1 to the report submitted to the Committee, be approved.
- (2) That a special meeting of the Committee be convened on Wednesday 15 May 2024 at 7pm for the purpose of considering the independent review of governance across the Council.

Reason:

To allow the Committee to maintain and update its work programme.

Action	Officer to Action
To convene the special meeting of the Committee on 15 May 2024.	John Armstrong

CGS87 EXCLUSION OF THE PUBLIC

The Committee

RESOLVED: That in accordance with Section 100A(4) of the Local Government Act 1972:

- (1) the public be excluded from the meeting during consideration of agenda items 10 and 11 on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of these items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 2 of the revised Part 1 of Schedule 12A to the Local Government Act 1972, which was Information which was likely to reveal the identity of an individual.
- (2) the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

CGS88 WHISTLEBLOWING: GUILDFORD BOROUGH COUNCIL - THE WOKING ROAD DEPOT

The Committee considered a report by the Monitoring Officer in respect of various allegations raised formally under the Council's Whistleblowing Policy regarding the behaviour/conduct by certain staff based at Woking Road Depot. The incidents in question covered a five-year period.

In October 2023, an investigation into the Whistleblowing complaint was commenced. Following the investigation, recommendations were made to the Council's Corporate Management Board, which led to an action plan being implemented. Details of the outcome of the investigation and the action plan were set out in the report submitted to the Committee.

During the debate on this matter, the Committee raised a number of questions and concerns including:

- Whether the first of the alleged incidents referred to in the report should have been reported to the Police. In response the Monitoring Officer reiterated that the alleged incident had taken place around five years ago and was therefore very difficult to investigate and substantiate.
- The reason why it was not felt necessary to inform the Information Commissioner's Office (ICO) in relation to the second allegation. In response the Monitoring Officer indicated that advice had been taken from the Information Governance Officer who had advised that due to the historical nature of the allegation and that there had been no evidence of any data having left the control of the Council it was not in the remit of what would be required to report an incident to the ICO.
- In response to a suggestion that the data referred to never was in the Council's control, the Monitoring Officer explained that there was actually no evidence of any data having been recorded and, if it was, the Council did not know where it was now and so could not be sure that it had left the Council's control. It would therefore be very difficult to make a referral to the ICO without any knowledge of what data may or may not have been breached. The Monitoring Officer acknowledged that more work should have been done to determine whether the matter should have been referred to the ICO and would ask the Information Governance Officer to conduct an audit of the ICO recommendations to determine why the conclusions in the report had been reached.
- In relation to the recently adopted Whistleblowing Policy, it was suggested that the Leader, relevant Executive member, and the chair and vice-chair of this Committee should be informed at the outset when a Whistleblowing matter was received.
- In response to a query as to whether the Whistleblowing Policy covered a councillor making a whistleblowing complaint against another councillor, the Monitoring Officer confirmed that if the complaint was an issue of conduct, the matter would be dealt with through code of conduct processes, but if the matter alleged wrongdoing or misdemeanour in some other way then it would be covered by the Whistleblowing Policy. It was also suggested that it should be made clear in the Policy that whistleblowing can be about a councillor's wrongdoings too.

- It was also suggested that an apology be made to the whistleblower in respect of the delay in dealing with the allegations made and that they be informed of the action taken more recently to draw it to the attention of the Committee.

The Committee

RESOLVED: That the contents of the report be noted.

Reasons:

- The Committee was a key component of the authority’s corporate governance regime, and provided an independent and high-level focus on the assurance and reporting arrangements that underpin good governance.
- The Committee had, within its terms of reference in Part 3 paragraph 14: “To consider an annual report of the operation of the whistle-blowing policy, including incidents reported”.

Action:	Officer to action:
<ul style="list-style-type: none"> • To notify the Police regarding receipt of the first allegation referred to in the report. • To discuss informally with the ICO as to whether a formal referral should have been made in respect of the second allegation referred to in the report. • To make it clear in the Whistleblowing Policy that councillors were covered. • To ensure that the Leader, relevant Executive member and the chair and vice-chair of this Committee were informed at the outset when a Whistleblowing matter is first raised. 	Monitoring Officer

CGS89 WHISTLEBLOWING: GUILDFORD BOROUGH COUNCIL - BUILDING CONTROL SERVICES

The Committee considered a report by the Monitoring Officer in respect of various anonymous allegations raised formally under the Council’s Whistleblowing Policy regarding the behaviour/conduct by certain Building Control staff including an allegation of criminal activity.

The report had set out details of the action that had been taken in response to the allegations including a referral of the alleged criminal activity to the Police.

The Monitoring Officer had concluded that there was no further action for the Council to take in respect of the matter.

The Committee

RESOLVED: That the contents of the report be noted.

Reasons:

- The Committee was a key component of the authority’s corporate governance regime, and provided an independent and high-level focus on the assurance and reporting arrangements that underpin good governance.
- The Committee had, within its terms of reference in Part 3 paragraph 14: “To consider an annual report of the operation of the whistle-blowing policy, including incidents reported”.

The meeting finished at 8.33 pm

Signed

Date

Chairman