

Guildford Borough Council

Report to: Council

Date: 23 July 2024

Ward(s) affected: All

Report of Strategic Director: Legal & Democratic Services

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Report status: Open

Proposed Changes to the Officer Scheme of Delegation & Proper Officer Scheme

1. Executive Summary

- 1.1 It is good practice to keep the Officer Scheme of Delegation and Proper Officer Scheme under review, as it forms part of the Constitution of the Council. This review has been undertaken jointly with Waverley Borough Council, with the intention that both Officer Schemes of Delegation and Proper Officer Schemes would align where appropriate.
- 1.2 The review of the Officer Scheme of Delegation and Proper Officer Scheme has been undertaken by the Joint Constitutions Review Group (JCRG) at their meetings held on 25 April, 29 May and 20 June 2024.

- 1.3 Each Council's Executive¹ has also considered this matter in the context of the Officer Scheme of Delegation which relates specifically to Executive functions. Both Executives gave formal approval to the delegation of Executive functions set out in the revised Joint Officer Scheme of Delegation and Proper Officer Scheme. The Executive also authorised the Monitoring Officer, in consultation with the respective Leader, Deputy Leader & Portfolio Holder, to include any changes to the Scheme of Delegation in respect of Executive functions recommended by the Corporate Governance & Standards Committee, as appropriate.
- 1.4 At its meeting on 20 June 2024, the JCRG agreed to recommend approval of the new Officer Scheme of Delegation and Proper Officer Scheme to the Corporate Governance & Standards Committee at its meeting held simultaneously with Waverley's Standards & General Purposes Committee on 1 July 2024, with a further recommendation that the Committee recommends the adoption of the new Officer Scheme of Delegation and Proper Officer Scheme to full Council at this meeting.
- 1.5 In considering this matter at its meeting on 1 July, the Corporate Governance & Standards Committee made a number of comments and observations. In response to a question as to whether the proposed revised scheme of delegation addressed the various lessons learned from the governance related investigations undertaken to date in respect of Guildford, it was confirmed that a key recommendation arising from the SOLACE reports was that the scheme of delegation should be reviewed. In working up the revised scheme of delegation, officers had looked at both councils and it was noted that one of the critical points that had been addressed was to reduce the financial limits that officers were able to spend to under delegated powers without coming back to the Executive, which was a critical safeguard and the scope of certain delegations had been dramatically reduced.

¹ Waverley's Executive on 11 June and Guildford's Executive on 12 June 2024

2. Recommendation to Council

- 2.1 That the revised Joint Officer Scheme of Delegation and Proper Officer Scheme, as set out in Appendices 1 and 2 to this report, be adopted into the Constitution replacing the existing Scheme of Delegation and Proper Officer responsibilities.

3. Reasons for Recommendation:

- 3.1 An officer scheme of delegation and proper officer scheme which is materially the same for both Councils, whilst being owned by each Council in respect of their services, will help to promote more efficient joint working and will support the transformation programme by aligning officer decision making across both Councils.
- 3.2 The recommended changes will improve the governance procedures for each Council and will ensure that there is greater transparency over decision making.
- 3.3 The reductions in financial limits will ensure that key decisions are made by the Executive, thereby promoting accountability and transparency.
- 3.4 Aligning officer delegations into a scheme, which is similar for both Councils, supports the Councils' Collaborative and Transformation programme and provides clarity for those officers employed to provide a joint service across both Councils.

4. Purpose of Report

- 4.1 This report presents, for members' consideration, the proposed new Officer Scheme of Delegations, which is set out in Appendix 1, and Proper Officer Scheme, set out in Appendix 2.

5. Strategic Priorities

- 5.1 This report will assist in the delivery of the Councils' corporate priorities and collaborative working agenda.

6. Background

- 6.1 Council decision making can be delegated to officers, through a written Officer Scheme of Delegation which is included in the Constitution of the Council and is publicly available. For an Officer Scheme of Delegation to be effective, it must clearly set out the responsibilities of officers and any limitations on their powers. It should contain those areas where the Council is delegating its decisions (whether Executive or Council) and should not contain 'Business as Usual' matters, which form part of an officer's job description.
- 6.2 Waverley Borough Council and this Council currently each have a different Officer Scheme of Delegation ('Scheme'). This means that officers must refer in detail to each Scheme to check their delegated authority before making a decision and, in some areas, the Scheme does not provide authority or has different limits/consultation areas for each Council. This leads to a lack of clarity for members of the Joint Management Team (JMT), as they work across both Councils but with differing decision levels across their services.
- 6.3 The Officer Scheme of Delegation should be read in conjunction with the revised Financial Procedure Rules and Contract Procedure Rules, set out elsewhere on this agenda. These three documents form an important part of the governance framework of the Council.
- 6.4 A 'Proper Officer' is the post designated by the Council to carry out certain functions as required by statute.

7. Consultations

- 7.1 All members of the JMT have been consulted over the proposed changes and are supportive of the changes to the Scheme(s), because they provide welcome further clarity over decision making.
- 7.2 The Joint Constitutions Review Group have provided input at their meetings held on 25 April, 29 May and 20 June 2024.

- 7.3 The Executive agreed the Officer Scheme of Delegations and Proper Officer Scheme (insofar as it relates to Executive functions) at its meeting on 11 June 2024.
- 7.3 The Corporate Governance and Standards Committee also considered the Officer Scheme of Delegations at their meeting on 1 July 2024 and agreed to recommend to full Council subject to the additional of the portfolio holder/leader as consultee in two areas. These have been added to the appended Officer Scheme of Delegations. Members also asked for risk management to be included and this is now covered in 2.8.1, where the management of functions must be within the agreed risk management framework.
- 7.4 Members also requested that member training cover the area of what is expected within the role of a ward member, including as a consultee and it was agreed that this would be covered within member training for the future.

8. Key Risks

- 8.1 There is a risk of poor decision making and a lack of accountability where delegations are unclear or are poorly understood. This can be mitigated by having a clearly expressed Officer Scheme of Delegation and Proper Officer scheme, and training officers as necessary.
- 8.2 There is a risk that by reducing the financial limits, the Executive, whilst having greater oversight, has a busier agenda at its meetings. This can be mitigated by ensuring that Executive decision making provides suitable delegations to officers, thereby ensuring that the Executive have retained overall control and made decisions for officers to implement. It could be further mitigated by the Executive considering greater use of delegated authority to individual Portfolio Holders where appropriate.

9. Financial Implications

- 9.1 There are no direct financial implications resulting from this report.

9.2 The indirect financial implication is that officer spending limits will be reduced to key decision levels. The Financial Procedure Rules also need to reflect these changes, and that will provide an opportunity to ensure that they also contain adequate controls.

10. Legal Implications

10.1 Councils can delegate non-Executive functions to officers under S101 Local Government Act 1972, and the Leader of the Council may delegate Executive functions to officers under Section 9E (2) Local Government Act 2000. Delegation provides for officer decision making within a framework set by members and contributes to the effective operation of the Council, with members able to focus on setting policy and political objectives.

11. Human Resource Implications

11.1 There are no direct HR implications.

12. Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report. This report has given due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning constitutional arrangements.

13. Climate Change/Sustainability Implications

13.1 There are no climate change or sustainability implications.

14. Summary of Options

14.1 The Council is asked to consider the proposed new Officer Scheme of Delegation attached as Appendix 1 to this report, and Proper Officer Scheme attached as Appendix 2, which have been recommended for approval by the Corporate Governance and Standards Committee.

14.2 The Council may:

- (a) agree the proposed new Officer Scheme of Delegation and Proper Officer Scheme, or

(b) choose not to adopt a revised Officer Scheme of Delegation and Proper Officer Scheme.

15. Background Papers

Existing Officer Scheme of Delegation & Proper Officer Scheme –
Guildford Borough Council (Part 3 of the GBC Constitution)

16. Appendices

Appendix 1: Proposed new Officer Scheme of Delegation

Appendix 2: Proposed new Proper Officer Scheme