

Guildford Borough Council

Report to: Council

Date: 22 January 2025

Ward(s) affected: All

Report of: Joint Strategic Director Democracy, Law and People and Monitoring Officer

Author: Susan Sale

Email: susan.sale@guildford.gov.uk

Executive Portfolio Holder: Cllr Merel Rehorst-Smith

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

Report Status: Open

Officer Decision Making Protocol

1. Executive Summary

- 1.1 It has been identified by the Monitoring Officer that compliance with good governance in respect of officer decision making could be improved by the Council.
- 1.2 This protocol attempts to ensure clarity around the Council's expectations as to officer decision making and their adopted procedures. It also provides a governance framework that promotes transparency, accountability, scrutiny, consultation, and decision making at an appropriate level with member engagement.
- 1.3 This matter was considered by the Joint Constitutions Review Group, at its meeting on 21 November 2024, which recommended to Corporate Governance & Standards Committee that it recommends adoption of the protocol by full Council. The Corporate Governance & Standards Committee, at its simultaneous meeting with Waverley's Standards Committee, on 16 January 2025 will be considering the matter and the Committee's recommendation will be included on the Supplementary Agenda Pack for the Council meeting.

2. Recommendation to Council

Subject to the comments and recommendation of the Corporate Governance and Standards Committee, the Council is asked to resolve:

- 2.1 That the Officer Decision Making Protocol, attached as Appendix 1 to this report, be adopted into the Constitution.

3. Reasons for Recommendation:

- 3.1. To ensure clarity around Officer Decision Making.
- 3.2. To provide a governance framework for officer decision making that ensures compliance with statutory requirements and promotes transparency, accountability, scrutiny, consultation and member engagement.

4. Purpose of Report

- 4.1 To provide a Protocol for Officers to ensure when making decisions they comply with Constitutional provisions adopted formally by the Council that ensure legal compliance and good governance.

5. Strategic Priorities

- 5.1 The Protocol supports the Corporate objective of the Council in achieving a well run and efficient Council.

6. Background

- 6.1 Decision making is a key component of the operation of a Local Authority and is paramount to upholding good governance in a transparent way to support the principles relating to the public body being accountable to the public, our residents and communities.
- 6.2 Officers may make decisions routinely as part of the usual day to day function of their roles as authorised by their contracts of employment. They may also make decisions based on authority delegated to them under the adopted Scheme of Officer Delegations, subject to compliance with other procedural rules, any limitations and consultation requirements. They may also make decisions based

on authority expressly delegated to them by a Committee, the Council, the Leader, or an Individual Executive Member.

- 6.3 In 2024, the Council reviewed the level at which authority for decisions should be made and adopted a revised Officer Scheme of Delegations in July 2024. The Scheme has since had some minor revisions made to it by the Monitoring Officer and was re-published in October 2024. The principle behind the Scheme is that generally, with some exceptions, key decisions are made by members (unless specific delegation is given by a decision maker) and non-key decisions are made by officers.
- 6.4 It is essential that there is clarity as to whom the decision maker is. The Scheme of Delegations authorises the holders of certain posts, including the Chief Executive, Strategic Directors and Assistant Directors to exercise a delegation in their own name, on behalf of the Executive or Council. Further, such Officers may authorise other Officers to make decisions, but such authorisations must be in writing, to expressly nominated posts, contained in a written scheme of Authorisations, provided to the Monitoring Officer and published on the Council's website. No Officer may make such decisions without the appropriate authorisation and the senior officer providing the authorisation remains accountable and responsible for the decision. This procedure ensures there is accountability in decision making and there is transparency as to the authority for any decision.
- 6.5 The Protocol provides that all decisions made by Officers must be confirmed as soon as practicable in an Officer Decision Notice which must be provided to Democratic Services Officers for publication. This provides an opportunity for these specialist officers to ensure compliance with governance, including to check the appropriate authority is in place, consultation has been undertaken, and whether any information may be exempt, before publishing the relevant notices. Democratic Services Officers will also have a role in retaining documentation, including exempt versions of notices.
- 6.6 It is anticipated that should the Council adopt the new Protocol into the Constitution, extensive training and support will be provided to all Officers, and will be included in induction training and repeated on a regular basis.

6.7 The Protocol ensures Members make decisions at an appropriate level, and are often consultees when Officers exercise their authority to make decisions. It ensures that in respect of key decisions there is a call-in process of 5 days for members to scrutinise any decision before it is implemented. The 28-day notice period of a key decision as well as the publication of the decision notice enables members to have extensive visibility of officer decision making.

7. Consultations

7.1 Consultation has taken place with Democratic Services Officers, Deputy Monitoring Officers, and senior Legal Officers.

7.2 Consultation has taken place with Corporate Leadership Board and Portfolio Holders.

8. Key Risks

8.1 There is risk of failing to comply with statutory requirements and good governance by not implementing this, or similar, arrangements for Officer Decision making.

9. Financial Implications

9.0 There are no financial implications arising from this report.

10. Legal Implications

10.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, govern statutory requirements relating to executive key decisions. The Openness of Local Government Bodies Regulations 2014 provide statutory requirements regarding the publication of other types of decisions to ensure transparency.

10.2 The Scheme of Delegations to Officers is contained within Part 3 of the Council's Constitution.

10.3 The Scheme of Authorisations setting out further authorisations to other Officers are published on the Council's website.

11. Human Resource Implications

11.1 There are no Human Resource implications arising from this report.

12. Equality and Diversity Implications

12.1 There are no equality and diversity implications arising from this report.

13. Climate Change/Sustainability Implications

13.1 There are no climate change or sustainability implications arising from this report.

14. Summary of Options

14.1 The Council may choose to adopt this Officer Decision Making Protocol into the Constitution, or choose not to adopt it, or they may choose to make amendments and adopt an amended version.

15. Conclusion

15.1 Adoption of the Officer Decision Making Protocol will ensure good governance and statutory compliance around decision making.

16. Background Papers

Guildford Borough Council Constitution October 2024

17. Appendices

Appendix 1: Draft Officer Decision Making Protocol

Appendix 2: Flowchart to include in Protocol