

CORPORATE GOVERNANCE AND STANDARDS COMMITTEE

27 July 2023

Councillor Phil Bellamy (Chairperson)

* Councillor Bob Hughes (Vice-Chair) [in the chair]

Councillor Joss Bigmore

* Councillor James Jones

Councillor George Potter

* Councillor James Walsh

* Councillor Fiona White

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, and Councillors Jason Fenwick and Howard Smith were also in attendance.

Councillors Bilal Akhtar and Sue Wyeth-Price were in remote attendance.

CGS11 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

Apologies for absence were received from the chairman, Councillor Phil Bellamy, and from Councillor Joss Bigmore (for whom Councillor Ruth Brothwell substituted), Councillor George Potter (for whom Councillor Vanessa King substituted) and from Murray Litvak.

CGS12 LOCAL CODE OF CONDUCT - DISCLOSURE OF INTERESTS

There were no disclosures of interest.

CGS13 MINUTES

The minutes of the meeting of the Committee held on 15 June 2023 were approved as a correct record, subject to a correction showing that Councillor Howard Smith was in attendance in the Chamber rather than in remote attendance.

CGS14 DECISION AND 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 noted that the action in the second item on the tracker, which related to ensuring that future Financial Monitoring Reports clarified the extent to which debts were overdue and further information as to the reason why a high proportion of overdue debt had no

payment plan, would be addressed in the report scheduled for consideration by the Committee in September.

The Committee

RESOLVED: That the decision and action tracker be noted and that the actions reported as being completed be removed from the table.

CGS15 UPDATE ON THE REVISED JOINT EQUALITY, DIVERSITY AND INCLUSION POLICY, AND ASSOCIATED ACTION PLAN

The Committee noted that, under the Equality Act 2010, there were statutory obligations for organisations to have equality objectives and to adhere to the general and specific duties within the Act.

The Committee considered a report which had set out a proposed joint Equalities, Diversity, and Inclusion policy, which had been produced in collaboration with Waverley Borough Council. Although it would be a shared policy, the associated action plans were separate for each Council. The action plan had been updated to be more accessible and easier to use. The action plan would be reviewed by the Equality, Diversity and Inclusion Group every quarter and progress updated annually to this Committee.

During the debate, the following points were raised:

- Query as to whether the third bullet point of paragraph 2.1 of the policy (“our Equality Objectives”), and the second bullet point of paragraph 2.5 (“As a Community Leader”) should also include Guildford.
- Request to see the terms of reference of the Corporate Equality Group.
- Insufficient reference to disabilities in the policy and action plan, which lacked ambition, and a request that this be addressed and brought back to the Committee.
- It was felt that councillors, as well as staff, should be encouraged to use personal pronouns in email signatures (see action 4.1 in the action plan).

Having considered the report, the Committee

RESOLVED: That the comments referred to in the bullet points above be referred to the relevant officer to address and that a further report be brought back to the Committee.

Action:	Officer to action:
To bring a further report back to the Committee addressing each of the following comments: <ul style="list-style-type: none">• Query as to whether the third bullet point of paragraph 2.1 of the policy (“our Equality Objectives”), and the second bullet point of paragraph 2.5 (“As a Community Leader”) should also include Guildford.• Request to see the terms of reference of the Corporate Equality Group.• Insufficient reference to disabilities in the policy and action plan, which lacked	HR Business Partner

Action:	Officer to action:
<p>ambition, and a request that this be addressed and brought back to the Committee.</p> <ul style="list-style-type: none"> It was felt that councillors, as well as staff, should be encouraged to use personal pronouns in email signatures (see action 4.1 in the action plan). 	

CGS16 EXTERNAL AUDIT FINDINGS REPORT 2020-21

The Committee noted that the audit of the 2020-21 accounts was nearing completion and the Council's external auditors intended to issue an unqualified opinion on the financial statements, which the Chief Finance Officer would re-certify in accordance with the Accounts and Audit Regulations 2015 immediately after the Committee meeting. The auditors had issued an Audit Findings report, which was appended to the committee report, together with a management action plan.

There were some adjustments to the primary statements required as a result of the audit and these, along with details of the actions taken, were highlighted in the audit findings report. There were also some minor changes that were not individually significant enough to warrant separate disclosure in the findings report.

The 2020-21 Auditors Annual Report would be reported, together with the 2021-22 Auditors Annual report, to the Committee at a future meeting.

The Chairman of the Committee was required to issue a letter of representation on behalf of the Council to the auditors to provide assurance over the management framework operating at the Council and the disclosures in the accounts. A copy of the proposed letter was attached as Appendix 2 to the report.

The Committee's attention was drawn to the Action Plan in the Audit Findings Report and the management responses, and to the various adjustments made to the accounts since the first draft of the accounts were published.

During the debate, the Committee made the following comments:

- Concern over the likelihood of the Council having made decisions with significant financial implications based on unaudited financial information.
- In view of the Council's current financial position, the Council's focus and priority should be on putting in place a sustainable Medium Term Financial Plan, rather than any retrospective investigation into the merits or otherwise of the Future Guildford project.
- The Council should be asking itself whether it was on track to deliver the anticipated annual revenue savings of up to £10.2 million from the Future Guildford transformation programme.
- In response to a question as to the timescale for completion of the joint 2020-21 and 2021-22 value for money report, the external auditors confirmed that it was intended to bring that report to the next meeting of this Committee.
- Request that future Audit Findings Reports provide an alternative to the colour-coded assessments to assist those with colour blindness.

- In response to concerns, the Interim Joint Executive Head of Finance gave assurance that the Council’s financial systems were sufficiently robust.
- In response to a request for clarification as to when the 2021-22 audited accounts would be presented to the Committee, the Interim Joint Executive Head of Finance confirmed that the 2022-23 accounts officer were nearing closure, and work would shortly focus on 2021-22 accounts to make sure that all the issues that had been raised in the Audit Findings Report for the 2020-21 accounts and the work on the 2022-23 accounts were addressed.

Having considered the report, the Committee

RESOLVED:

- (1) That Grant Thornton’s Audit Findings report attached as Appendix 1 to the Committee report, and the management responses provided in the action plan (as set out in Appendix A to Appendix 1 to that report) be noted.
- (2) That the letter of representation, as set out in Appendix 2 to the report, be approved, and that the Chairman of the meeting be authorised to sign the letter on the Council’s behalf.

Reason:

To allow the external auditor to issue his opinion on the 2020-21 accounts.

Action:	Officer to action:
To bring the joint 2020-21 and 2021-22 value for money report to the next meeting of this Committee.	Paul Cuttle, Grant Thornton (external auditors)
To provide in future Audit Findings Reports an alternative to the colour-coded assessments to assist those with colour blindness.	Paul Cuttle, Grant Thornton (external auditors)

CGS17 AUDITED STATEMENT OF ACCOUNTS 2020-21

The Committee considered the Audited Statement of Accounts for 2020-21. The Audit Findings report had covered the changes made to the accounts between the draft published on our website and the audited accounts.

The audited accounts appended to the Committee report included the changes.

The Committee noted that the external auditors (Grant Thornton) had issued an unqualified opinion on the financial statements but had recommended a number of management actions.

Having considered the Statement of Accounts for 2020-21, the Committee

RESOLVED:

- (1) That the audited statement of accounts 2020-21, as set out in Appendix 1 to the report submitted to the Committee be approved.
- (2) That the Chairman of the meeting be authorised to sign the official copy of the accounts to state that they are approved.

Reasons:

- To approve the Statement of Accounts for 2020-21
- In order to comply with the Accounts and Audit Regulations 2015 the statutory statement of accounts requires approval by Council or a designated Committee, by 30 November each year.

CGS18 INTERNAL AUDIT PROGRESS REPORT (MAY 2023)

The Committee considered the first internal audit progress report for 2023-24 from the Council's new internal auditors, Southern Internal Audit Partnership. The report summarised progress with the "live" audit which were defined as any audit reviews that resulted in management actions being raised and where those management actions were either not yet due or were overdue, and whether those overdue actions were low, medium, or high priority.

In response to a question in the debate regarding the nature of the "resource pressures" referred to in Annex 1 to the report "Overdue High Priority Management Actions", the internal auditor reported that the reason for the management actions being overdue was that the responsible officer had been on leave and had not been able to provide an update in time to report this to the Committee.

Having considered the report, the Committee

RESOLVED: That the progress made against the internal audit plan for 2023-24, as detailed in the report submitted to the Committee, be noted.

CGS19 MONITORING OF S.106 CONTRIBUTIONS

The Committee considered a monitoring report showing the details of Section 106 contributions that had been secured, received, and spent as at the date of the report. In cases where the contribution had not yet been spent, the report had shown whether the contribution had been committed to a project.

The Committee noted that Section 106 Agreements could be used to secure financial contributions towards infrastructure that was required to mitigate the impact of development. The Council would only seek contributions where a proposed development created additional need or exacerbated an existing deficiency and where it complied with the three tests set out in the Community Infrastructure Levy Regulations 2010 (as amended).

Section 106 Agreements were recorded and monitored using a module of the Acolaid planning database, from the signing of the agreement to spending the contributions. The Council's Finance team also kept a monitor of income and spend of developer contributions.

Detailed information on Section 106 contributions towards infrastructure were included in the report, which was split into four main sections, S106 Expired Funds S106 Funds Available, S106 Pending Funds and S106 Spent Funds.

As at 31 March 2023, there was a balance of £1,961,341.81 for GBC S106 contributions and £13,588,745 for the SPA Reserves as well as £10,775,177 for Surrey County Council (SCC)

and other relevant bodies; these sums being developer contributions that had been received but not spent or passed to relevant bodies.

During the debate, the Committee made the following points:

- General concern about the levels of expired funds and the risk of having to return them to developers.
- Specific concerns that substantial sums of unspent S106 money had been earmarked for spending on education and health and that in respect of the former, there were no indications from Surrey County Council that this money was actually being spent to mitigate the pressure on local schools. In response to a question as to what pressure could be put on the County Council to use the money as quickly as possible towards the purposes for which it had been allocated the Joint Executive Head of Planning Development confirmed that she had already met with Surrey County Council to discuss closer working going forward, both in the way planning applications were negotiated and how S.106 Agreements were structured, particularly on large developments to ensure that there was early spend of contributions.
- In response to concerns regarding certain arithmetical calculations in the report, the lack of information regarding non-financial contributions (e.g. proposed new healthcare provision), and lack of information as to progress with certain projects where funds have apparently been spent or to whom they were given
- In response to a suggestion that local ward councillors and (where appropriate) parish councils should be consulted as to where partially unspent contributions should be spent, the Joint Executive Head of Planning Development agreed that the Council should ensure that S106 monies were spent appropriately, transparently, and with local engagement.
- The Joint Executive Head of Planning Development suggested that the way that the report had been formatted, which had been taken from the Council's internal systems was not actually providing the information required by the Committee and indicated that a further report could be brought back to the Committee in November in order to respond to some of the specific questions raised at the meeting which would enable the Committee to have a better understanding of how these monies were held and being spent. In addition, consideration would be given as to how unspent monies should be re-profiled.
- In response to a request that the further report referred to above should revise the table in paragraph 7.13 of the report (Comparison to previous report) and include further information as to new S106 monies received

during the period between reports, and S106 monies spent during that period.

- Concern that the effect of high inflation reduced the value of unspent S106 monies.
- This Council could not specify to third parties to whom S106 monies had been allocated for spending, such as the County Council or GP practices, deadlines by which those monies had to be spent.

The Committee

RESOLVED: That the Section 106 Monitoring Report be noted and a further report addressing the matters referred to above, be submitted to the Committee at its meeting on 17 November 2023.

Reason:

To ensure that the Committee is informed of the extent to which S106 funds are available, pending, and spent/committed.

Action:	Officer to action:
To submit a further report to the Committee in November 2023 to respond to some of the specific questions raised to enable the Committee to have a better understanding of how S106 monies were held and being spent.	Joint Executive Head of Planning Development/ Specialist S106 Officer

CGS20 PLANNING APPEALS MONITORING REPORT

The Committee was reminded that at its meeting held on 16 June 2022, it was agreed that future planning appeals monitoring reports be presented annually, to see if any patterns were emerging in respect of member overturns, costs of overturn appeals and costs awards.

The Committee considered a further updated monitoring report on planning appeals, which focused on data relating to the years 2021-2023.

Officers had attached commentary to each year's report which looked at the proportion of appeals allowed in respect of member overturn decisions and overall appeal performance. The report had also included details of the range of costs associated with defending appeals together with the key risks and financial implications.

The Committee noted that a detailed report on planning appeals, including details of cost applications, was reported to every meeting of the Planning Committee. The information contained in the monitoring report had been taken from the information contained on previous Planning Committee agendas.

The report had highlighted that the Council's success rate on appeals was improving year on year, which was particularly important as this was one of the measures that DLUHC used to assess the Council's performance as a planning authority. Along with the speed at which applications were determined, DLUHC also measured quality of decisions over a two-year rolling programme. Paragraph 7.7 of the report had set out the published current performance on quality of decision-making for both major and non-major applications.

There was also a detailed monthly training programme that had been developed for members and officers with a different topic each month which would be rolled out shortly.

During the debate, the following points were raised:

- Clarification was sought as to the criteria by which the Secretary of State had stated that the Council was at risk of designation in terms of the determination of planning applications. In response, the Joint Executive Head of Planning Development indicated that it was in respect of a specific performance measurement, namely the speed at which non-major applications were being determined. The measures to be taken to avoid designation were meant to achieve 70% within the 8-week period over a rolling 2 year programme. Performance had significantly improved for the quarter January to March 2023, where we achieved 72%, and the period April to June, where we achieved 82% of determination on non-major applications.
- It was noted that the criteria for designation of a local planning authority could either be the speed of determining applications or quality of decisions. Quality of decisions was measured by overturns of committee decisions at appeal and was the focus of this planning appeals monitoring report. However, the report lacked any data on the first reason for possible designation, the speed of decisions in determining or not determining planning applications within statutory time periods.
- Concerns were reiterated regarding the number of applications appealed on the grounds on non-determination by the Council, in that this could make a designation more likely and lead to awards of costs against the Council. There was also concern over the “democratic deficit” caused by non-determination of planning applications within the statutory time periods. It was suggested that a further report should be submitted to the Committee at its November meeting, on the number of applications (of all types) per ward that were not being determined within the statutory time limits, and the reasons for their non-determination.
- Given the capacity issues around how the Council was trying to improve its planning processes and performance to avoid designation, the Leader of the Council expressed concern at having to provide a further report when officers should be focusing on improving the speed of determination of applications.
- As the criteria for designation were based on both speed and quality, there was concern that, whilst the speed of determination of non-major applications has increased from 72% to 82%, it had been at the expense of the quality of some of those decisions.

Having considered the report, the Committee

RESOLVED: That the contents of the revised Planning Appeals Monitoring Report and data be noted.

Reason:

To enable the Committee to monitor the Council’s performance on planning appeals.

CGS21 REVIEW OF TASK GROUPS REPORTING TO THE COMMITTEE

The Committee noted that Council Procedure Rule 24 (v) required the appointing body to review annually, the continuation of task groups appointed by them. Although the Councillors' Development Steering Group had been set up originally as an Executive working group, it was agreed in 2015 that the Steering Group, which met quarterly, would report on its work to this Committee.

The Corporate Governance Task Group had been established by the Committee in November 2019 to review a number of corporate governance related matters and had met on ten occasions in 2022-23.

The Committee considered a report which reviewed the work carried out by the Steering Group and the Task Group over the past twelve months, and the work to be undertaken over the next twelve months. The Committee was asked to agree that the Councillor Development Steering Group should continue its important work and continue to be representative of all political groups on the Council.

The Committee was also asked to consider disbanding the Corporate Governance Task Group and to establish, jointly in conjunction with Waverley Borough Council's Standards and General Purposes Committee, a new Joint Constitutions Review Group (JCRG) with an overall objective of aligning key parts of the Councils' respective constitutions, where it was appropriate to do so.

Having recorded their thanks to the members and former members of the Corporate Governance Task Group, the Committee

RESOLVED:

- (1) That the Councillor Development Steering Group should continue its work and that the numerical allocation of seats on the Steering Group to each political group shall be one member per group for the 2023-24 municipal year as follows:**

Cllr Katie Steel
Cllr James Walsh
Cllr Catherine Young
1 x Conservative Group member (to be confirmed)
1 x Guildford Greenbelt Group member (to be confirmed)

- (2) That the Corporate Governance Task Group be disbanded.**

- (3) That a new Joint Constitutions Review Group be established jointly in conjunction with Waverley Borough Council's Standards and General Purposes Committee, and Guildford's membership shall comprise:**

Cllr Joss Bigmore
Cllr James Jones
1 x Conservative Group member (to be confirmed)
1 x Liberal Democrat Group member (to be confirmed)

- (4) That the draft terms of reference of the Joint Constitutions Review Group, as set out in Appendix 2 to the report submitted to the Committee, be approved.**

- (5) That the Committee notes the purpose of the Joint Constitutions Review Group, which will be to review the Guildford Borough Council Constitution, alongside the Waverley Borough Council Constitution, and to report back with their recommendations to both the Corporate Governance and Standards Committee at Guildford and the Standards and General Purposes Committee at Waverley. The Corporate Governance and Standards Committee will then have the opportunity to consider any recommendations from the Joint Constitutions Review Group relating to this Council's Constitution and may make appropriate recommendations to the Council to approve any changes.
- (6) That, from among those councillors appointed, the Committee, appoints a co-chairman of the Joint Constitutions Review Group.

Reasons:

- To comply with the requirement for this Committee to review the continuation of the task groups reporting to it, in accordance with Council Procedure Rule 24 (v).
- To commence work on the review of Guildford Borough Council's Constitution, and to do so in collaboration with partners from Waverley Borough Council, with an overall objective of aligning key parts thereof, where it is appropriate to do so.

CGS22 REVIEW OF GUILDFORD BOROUGH COUNCIL'S COVERT INVESTIGATIVE POWERS POLICY AND ALIGNMENT WITH THE POLICY OF WAVERLEY BOROUGH COUNCIL

The Committee considered a report which sought approval to recommend to the Executive the adoption of the draft Covert Surveillance and Investigative Powers Policy and Procedure, a copy of which was attached as Appendix 1 to the report. The Committee noted that the Audit & Risk Committee at Waverley Borough Council was also being asked to recommend an identical policy to Waverley Borough Council, with a view to both councils updating their current policies to reflect best practice, and to put the councils in the position of separate but aligned policies. This would reflect the current position of maintaining sovereignty but the policy being aligned to support and facilitate future collaboration between the councils should that be forthcoming.

The Regulation of Investigatory Powers Act 2000 (RIPA) (as amended by the Protection of Freedoms Act 2012 (POFA)) and the Investigatory Powers Act 2016 (IPA) had set out a regulatory framework for the use of covert investigatory techniques by public authorities who must also adhere to the published Codes of Practice. The purpose of the legislation was to regulate powers to access information in a manner that was compatible with the Human Rights Act 1998, particularly Article 8 - the right to respect for private and family life.

Interference with these rights must be necessary and proportionate. The Council was committed to implementing the provisions of RIPA (and associated legislation) to ensure that any covert surveillance and/or obtaining of Communications Data was undertaken lawfully and was necessary and proportionate to alleged offences.

The Committee was informed that the Council only used covert surveillance powers exceptionally. In the last five years, the Council had only used its powers twice, once in February 2019 and once in August 2021. Both uses were in relation to directed surveillance.

The proposed policy:

- described the investigative techniques local authorities were allowed to use and the limited circumstances in which they could be used;
- outlined the need for authorisation, training and identified examples of what would constitute regulated activity; and
- outlined the roles and responsibilities of various officers under the policy to ensure best practice and a consistency in approach when exercising RIPA and IPA powers.

As the legislation and Codes of Practice were frequently amended, this policy provided up-to-date details of those changes. The policy would also help the Council to comply with the requirements of the Investigatory Powers Commissioner's Office (IPCO) Inspectorate and also provide guidance to those who used these powers.

The Committee acknowledged that some roles described within the policy were shared across both councils and it made sense for the policy to reflect this, and for Guildford and Waverley to have aligned policies so the responsibilities of shared officers were clear and consistent.

Having noted that the draft policy had drawn the best parts and examples from each individual policy into one shared document, the Committee

RESOLVED: That the Executive be requested to agree that the draft Covert Surveillance and Investigative Powers Policy and Procedure attached as Appendix 1 to the report submitted to the Committee be adopted, subject to the same policy being adopted by Waverley Borough Council.

Reasons:

- To align the policies of Guildford and Waverley and to improve consistency in reporting, monitoring and approval of covert surveillance and acquisition of communications data.
- To ensure the integrity of the processes in place for the use of directed surveillance, covert human intelligence sources (CHIS) and acquiring communications data
- To maintain compliance with the Legislation and Codes of Practice that govern Investigatory powers and the Human Rights
- To ensure collaborative engagement with IPCO and their inspectors
- To ensure staff are fully trained and aware of their powers, duties and the authorisation process

Action:	Officer to action:
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Action:	Officer to action:
To submit the Committee's recommendation to the Executive for decision at its meeting on 24 August 2023.	Democratic Services & Elections Manager

CGS23 WORK PROGRAMME

The Committee considered its updated work programme noting the update on the Supplementary Information sheet listing dates when Internal Audit Reports were scheduled to be considered, and the comment earlier in the meeting that the joint 2021 22 Value for Money Audit report was expected to be submitted to the next meeting.

The Committee

RESOLVED: That the updated 12 month rolling work programme, as set out in Appendix 1 to the report submitted to the Committee, be approved, subject to the addition of the items referred to above.

Reason:

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

The meeting finished at 9.20 pm

Signed

Date

Chairman