

# Guildford Borough Council

Report to: Council

Date: 10 October 2023

Ward(s) affected: All

Report of Director: Transformation & Governance

Author: James Dearling, Senior Democratic Services Officer (Scrutiny)

Tel: 01483 444141

Email: james.dearling@guildford.gov.uk

Councillor responsible: Overview & Scrutiny Chairperson, James Walsh

Tel: 07533 767227

Email: james.walsh@guildford.gov.uk

Report Status: Open

## Overview and Scrutiny Annual Report 2022-23

### 1. Executive Summary

- 1.1 This report outlines the work undertaken by overview and scrutiny (O&S) during the past municipal year and its future work programme as thus far developed.
- 1.2 The six decisions taken during the past municipal year under the 'urgency' provisions are listed within the report and detailed at Appendix 2.<sup>1</sup> In 2022-23, the Overview and Scrutiny Committee (OSC) Chairperson agreed to requests to waive call-in on three occasions; no decisions were called-in for consideration by the OSC during the past municipal year.

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<sup>1</sup> For this report, urgency provisions refers to the circumstances set out in the Access to Information Procedure Rules 15 (General Exception) and 16 (Special Urgency). See [Guildford Constitution](#), Part 4, Procedure Rules and the preamble to Appendix 2 to this report.

- 1.3 At its meeting on 12 September 2023, the Overview & Scrutiny Committee was asked to:
- (a) consider the issues and topics examined by O&S during 2022-23;
  - (b) consider and approve the future work programme for O&S as developed thus far; and
  - (c) review the operation of provisions relating to call-in and urgency and consider proposals for improvement.
- 1.4 The Committee endorsed the recommendation below.

## **2. Recommendation to Council**

- 2.1 The Council is asked to resolve:
- (1) That this report be commended as the Overview and Scrutiny Annual Report for 2022-23.
  - (2) That the current rules relating to the Council's call-in and urgency provisions remain unchanged, subject to clarification of existing procedures to provide that whenever the special urgency provisions are used to take urgent key decisions in accordance with Access to Information Procedure Rule 16, details of those decisions shall be reported by the Leader to the next ordinary meeting of the Council, rather than annually.
  - (3) That Access to Information Procedure Rule 17.3 be amended as follows:
    - “17.3 Annual Reports from the Leader on Special Urgency Decisions  
In any event, the Leader will ~~submit annual~~ reports to the ~~next ordinary meeting of the~~ Council on ~~any the~~ executive decisions taken in the circumstances set out in Procedure Rule 16 (special urgency) ~~in the preceding year~~. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.”

### **3. Reasons for Recommendations:**

- 3.1. Article 8.2(d) of the Council's Constitution requires the Council's Overview and Scrutiny Committee to report annually to Full Council on the work undertaken during the year, its future work programme, and amended working methods if appropriate.
- 3.2. There are no changes proposed to the call-in procedure or the urgency provisions at this time.

### **4. Exemption from publication**

- 4.1. No part of this report is exempt from publication.

### **5. Purpose of Report**

- 5.1. This report outlines the work undertaken by the OSC during 2022-23 and its future work programme as developed thus far.
- 5.2. In addition, this report provides an opportunity for the review, and possible amendment through a report to Full Council, of the operation of the provisions relating to call-in and urgency.<sup>2</sup>

### **6. Strategic Priorities**

- 6.1. The O&S function strengthens the position of the Council to ensure we are able to deliver our strategic priorities. For example, O&S assists the Council in improving services and ensuring we are open and accountable in our decision-making.

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<sup>2</sup> Please note, the Leader of the Council is required by Regulation 19 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to report to Council at least annually on executive decisions taken in the preceding year under special urgency procedures.

## **7. Work of the OSC in 2022-23**

- 7.1. Overview and Scrutiny Procedure Rule 7 requires the Chairpersons and Vice-Chairpersons of the OSC and the Executive Advisory Boards (EABs) to hold joint work programme meetings. The purpose of these meetings is to exchange, discuss, and agree work programmes for submission to the OSC and EABs respectively. Joint work programme meetings were held remotely on five occasions in the past municipal year (30 June 2022, 7 September 2022, 1 December 2022, 1 February 2023, and 15 March 2023).
- 7.2. The O&S work programme has principally been prepared and progressed through online meetings and discussions between the O&S Chairperson, Vice-Chairperson, OSC members, and the Senior Democratic Services Officer (Scrutiny).
- 7.3. Lead Councillor question sessions continued to feature at OSC meetings in 2022-23 with seven members of the Executive attending, including the Leader of the Council. These sessions gave an opportunity for non-Executive Councillors (and members of the public<sup>3</sup>) to question a member of the Executive about decisions and performance. Questioning can focus on targets and performance over time; particular decisions, initiatives, or projects; or on a section of a Lead Councillor's portfolio.
- 7.4. The issues and topics considered by the OSC in 2022-23 include:
  - Borough's response to refugees
  - Children and Young People's Emotional Wellbeing and Mental Health Service
  - Safer Guildford Partnership Annual Report 2022
  - Air Quality Strategy workplan
  - Review of the Visitor Strategy
  - Spend on consultants and agency workers
  - Annual report on Council's Procurement

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<sup>3</sup> The Committee may facilitate the asking of questions submitted in advance by members of the public. Council Constitution, Part 2 (Article 8), section 8.2(b)iii.

- Annual report on Modern Slavery Motion
- Review of the Council's ownership of Liongate House
- Council's Customer Services
- Guildford and Waverley Councils Collaboration
- Stray Dog Service
- Performance Monitoring Reports 2022-23: quarterly
- Review of the Annual Report and Monitoring Arrangements for the Operation of the G Live Contract 2021-22
- Operation of Leisure Management Contract 2021-22

7.5. As a result of needing to adjust its workflow, the Committee held an additional meeting in October 2022. The decision to hold this meeting was not connected to a subsequent decision not to hold the September Committee meeting (due to the period of official mourning).

7.6. Issues around the delivery and accessibility of affordable housing in the Borough and improvements to North Down Housing Limited had been identified by the OSC for progression through an in-depth, task and finish group approach. This Affordable Housing task group was expected to report in 2022-23 but due to various difficulties did not. All but one member of the task group either did not stand for re-election or were not elected in May 2023; however, the task group members did identify some potential next steps to pass along to the OSC members.

7.7. In what form the issues around the delivery and accessibility of affordable housing in the Borough are taken forward is being considered as part of the O&S work programme for 2023-24. It is understood the work of any new affordable housing task group will need to be focused, with agreed and demonstrable outcomes.

7.8. The Joint Executive Head of Housing Services has indicated he will be a lead officer on any new affordable housing task group. Currently, ten O&S Councillors have expressed interest in participating in such a task group.

## **8. Current and future O&S work programme**

- 8.1. Attached at Appendix 1 is the O&S work programme for 2023-24 as developed thus far. This includes a programme of Lead Councillor question sessions, beginning with the Leader of the Council.
- 8.2. The number of OSC meetings scheduled for 2023-24 was affected by the Council's adoption of the Pre-Election Period Publicity Policy; however, the expectation is that additional OSC meetings will be scheduled if needed.
- 8.3. The intention is for a long-term work programme that focuses on items that can make a tangible difference, but one flexible enough to accommodate urgent, short-term issues that arise.
- 8.4. Once re-established, the working groups drawn from non-Executive Councillors to scrutinise the Council's Leisure Partnership Agreement and G Live contracts monitoring are scheduled to report back to the OSC in November 2023 and January 2024 respectively.
- 8.5. The G Live scrutiny working group members will be briefed on the procurement process; in part, so they can provide feedback throughout the procurement process.
- 8.6. The O&S work programme is considered regularly and agreed formally by the OSC. Topics are shortlisted with reference to a P.A.P.E.R. selection tool (attached as Appendix 3).

## **9. Resourcing O&S**

- 9.1. Research suggests the resource allocated to scrutiny is fundamental in determining how effective the function is. The Council has a Senior Democratic Services Officer post dedicated largely to scrutiny and a separate scrutiny budget (of £5,000 p.a.) for external advice and expertise.
- 9.2. The cost of external expertise over the last five years totals £504.30 (expenses for two experts to present to and advise the Committee,

plus commissioning an external researcher to help map the emergency food aid provision in the Borough).

- 9.3. The Council offers induction training and ongoing skills training to Councillors, which has traditionally been facilitated by John Cade from the Institute of Local Government Studies (INLOGOV), University of Birmingham – the most recent being on 23 May 2023 and 6 June 2023. All this training has been extremely well received by councillors and, budget permitting, additional sessions on aspects of overview and scrutiny would be welcome during 2023-24. The 6 June 2023 event was used to explore the importance of the work programme.
- 9.4. The cost incurred over the last 3 years for induction and ongoing O&S training for members is £1893 (consisting of the induction training provided in 2023).

## **10. Call-in procedure and urgency provisions**

- 10.1 The provisions relating to call-in and urgency are monitored on an annual basis and recommendations for changes will be submitted to the Council for consideration if necessary.
- 10.2 Call-in is the power of Overview and Scrutiny to scrutinise a decision by the Leader/Executive or an individual Lead Councillor before it is implemented. The call-in provisions also apply to a key decision made by an officer with delegated authority from the Leader/ Executive.
- 10.3 The provisions relating to call-in are specified in the Overview and Scrutiny Procedure Rules contained in the Council's Constitution. The call-in mechanism enables non-Executive councillors to intervene when they feel that a decision being made by the Leader / Executive should be revisited or changed. The effect of call-in is to prevent implementation of a decision until the OSC has examined the decision. The OSC has the power to refer a decision back to the decision-maker or to refer a matter for further review by the Council.

- 10.4 The call-in procedure has not been exercised at the Council in 2022-23, nor was it used in the previous two years. Call-in has seldom been used at Guildford Borough Council: in the 2019-20 municipal year, call-in was used once and prior to this was last exercised in 2012.
- 10.5 The call-in procedure was revised by the Council in October 2014 as part of a review of the Council's Constitution. In 2014, the call-in threshold was increased from three councillors to five, while retaining the call-in power of the OSC Chairperson and increasing the call-in period from 96 hours to 5 working days.
- 10.6 Having considered the statutory guidance on scrutiny<sup>4</sup> and the current and previously considered approaches to scrutiny at the Council, there are no changes proposed to the call-in procedure at this time.
- 10.7 The urgency provisions are specified in the Access to Information Procedure Rules and further in Overview and Scrutiny Procedure Rule 16(h). These provisions enable key decisions to be taken with less than 28 days' notice: either with at least 5 clear days' notification (as a general exception) or if less than 5 clear days' notice with the agreement of the OSC Chairperson (as a case of Special Urgency).
- 10.8 During 2022-23, the Special Urgency provisions were used on three occasions:
- Midleton Industrial Estate Redevelopment, Director of Resources decision, May 2022.
  - Grant a Protected Lease and a licence to alter of The Rock, 2 Thornberry Way, Slyfield Industrial Estate, Executive Head: Assets and Property decision, September 2022.

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<sup>4</sup> Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities, May 2019:

<https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities>



- Investment of Equity Shares in Guildford Borough Council Holdings Limited, Joint Chief Executive decision, September 2022.

10.9 During 2022-23, the general exception provisions were required on three occasions:

- Award of Contract for Cash Collection Services, Director for Service Delivery decision, July 2022.
- Guildford Lido Drainage and Modernisation Project, Executive decision, August 2022.
- Guildford Park Road Redevelopment – Action to Secure Electrical Connections and Capacity for the New Development, Executive decision, December 2022.

10.10 The Chairperson of the OSC agreed to waive call-in on three occasions, as detailed in Appendix 2: the Award of Contract for Cash Collection Services, Guildford Park Road Redevelopment – Action to Secure Electrical Connections and Capacity for the New Development, and the Ash Road Bridge Project tender processes.

## **11. Financial Implications**

11.1 There are no financial implications arising directly from this report.

## **12. Legal Implications**

12.1 This report on the operation of overview and scrutiny has been prepared in accordance with the requirements of the Council's Constitution. In particular, the Council's Overview and Scrutiny Procedure Rule 16(i) requires the operation of the provisions relating to call-in and urgency to be monitored annually and a report submitted to Full Council with proposals for review if necessary and Article 8.2(d) of the Council's Constitution requires the Council's Overview and Scrutiny Committee to report annually to Full Council on the work undertaken during the year, its future work programme, and amended working methods if appropriate.

12.2 The Council must 'have regard' to statutory guidance on O&S when exercising and reviewing its O&S function. This means that it is not necessary to follow every detail of the guidance, but it should be followed unless there is good reason not to do so.

### **13. Human Resource Implications**

13.1 There are no human resources implications arising from this report.

### **14. Equality and Diversity Implications**

14.1 The Council has a statutory duty under section 149 of the Equality Act 2010 which provides that a public authority must, in exercise of its functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

14.2 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

### **15. Climate Change/Sustainability Implications**

15.1 There are no climate change / sustainability implications arising directly from this report.

### **16. Summary of Options**

16.1 The Council is asked to consider the issues and topics examined by O&S during 2022-23 and approve the future work programme for O&S as developed thus far. In addition, the Council is requested to review the operation of provisions relating to call-in and urgency.

- 16.2 Time-limited decisions made through urgency provisions can diminish perceptions of transparency and accountability. Key decisions should only be made using urgency provisions as a last resort, in genuinely urgent situations. Members may consider that the intention to make a key decision could reasonably be expected to be identified and published by the Council to comply with the 28-day notice period.
- 16.3 Accordingly, to increase confidence that key decisions are made under the urgency provisions only when there are good reasons for doing so, the Council could approve a minor procedural change, that is to say, that the Leader of the Council reports to full Council on the use of urgency provisions as decisions arise through the year. In practice, this would be via the item on Leader's Communications.

## **17. Conclusion**

- 17.1 Having considered the statutory guidance on scrutiny, together with current and previously considered approaches to scrutiny at the Council, officers recommend no substantive change to call-in or urgency provisions at this time.

## **18. Background Papers**

None.

## **19. Appendices**

Appendix 1: OSC work programme 2022-23.

Appendix 2: Table to show key decisions taken in 2022-23 under urgency provisions and call-in waivers.

Appendix 3: P.A.P.E.R. selection tool.