

To: All Members of the STANDARDS AND
GENERAL PURPOSES COMMITTEE
(Other Members for Information)

When calling please ask for:
Leila Manzoor, Democratic Services Officer
Legal & Democratic Services
E-mail: leila.manzoor@waverley.gov.uk
Direct line: 01483 523224
Calls may be recorded for training or monitoring
Date: 29 December 2023

Membership of the Standards and General Purposes Committee

Cllr Andy MacLeod (Chair)
Cllr John Robini (Vice Chair)
Cllr Janet Crowe
Cllr Michael Goodridge

Cllr Gemma Long
Cllr Peter Nicholson
Cllr John Ward

Town/Parish Representatives

Cllr Joan Heagin, Godalming Town
Council (Co-Optee)

Cllr Joan Holroyd, Elstead Parish
Council (Co-Optee)

Dear Member

A meeting of the STANDARDS AND GENERAL PURPOSES COMMITTEE will be held as follows:

DATE: MONDAY, 8 JANUARY 2024

TIME: 6.00 PM

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

Susan Sale,
Executive Head of Legal & Democratic Services & Monitoring Officer

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NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

2. **MINUTES** (Pages 5 - 8)

To confirm the Minutes of the meeting which took place on 29 November 2023 (to be laid on the table 30 minutes before the meeting commences).

3. **DISCLOSURES OF INTERESTS**

To receive from Members, declarations of interests in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

4. **QUESTIONS BY MEMBERS OF THE PUBLIC**

The Chairman to respond to any written questions received from Members of the public in accordance with Procedure Rule 10.

The deadline for receipt of questions is Friday 29 December 2023.

5. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

The Chairman to respond to any written questions received from Members in accordance with Procedure Rule 11.

The deadline for receipt of questions is Friday 29 December 2023.

CONSTITUTIONAL MATTERS

6. **REVISED TERMS OF REFERENCE FOR THE JOINT GOVERNANCE**

COMMITTEE (Pages 9 - 24)

The Committee is recommended to make the resolutions set out in the report at item 6.

7. OFFICER EMPLOYMENT PROCEDURE RULES

The Committee is recommended to make the resolutions set out in the report at item 7.

(Report and appendices to follow).

8. REVIEW OF THE WAVERLEY BOROUGH COUNCIL KEY DECISION FINANCIAL THRESHOLD (Pages 25 - 36)

The Committee is recommended to make the resolutions set out in the report at item 8.

9. PRE-ELECTION PUBLICITY & DECISION MAKING POLICY (Pages 37 - 62)

The Committee is recommended to make the resolutions set out in the report at item 9.

10. PROPOSED MONITORING OFFICER PROTOCOL (Pages 63 - 74)

The Committee is recommended to make the resolutions set out in the report at item 10.

11. REVISED COUNCIL PROCEDURE RULE - EXTRAORDINARY MEETINGS OF THE COUNCIL (Pages 75 - 82)

The Committee is recommended to make the resolutions set out in the report at agenda item 11.

12. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:

Recommendation

That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the Committee agrees:

- (1) that the public be excluded from the meeting during consideration of the following matter on the grounds that it is 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 the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in Paragraph X of the revised Part 1 of Schedule 12A to the Local Government Act 1972; and
- (2) that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

**For further information or assistance, please telephone
Leila Manzoor, Democratic Services Officer, on 01483 523224 or by
email at leila.manzoor@waverley.gov.uk**

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE STANDARDS AND GENERAL PURPOSES COMMITTEE - 29
NOVEMBER 2023

SUBMITTED TO THE COUNCIL MEETING - <DATE>

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Andy MacLeod (Chair)
Cllr John Robini (Vice Chair)
Cllr Janet Crowe
Cllr Michael Goodridge

Cllr Gemma Long
Cllr Peter Nicholson
Cllr John Ward
Cllr Joan Holroyd, Elstead
Parish Council (Co-Optee)

Apologies

Cllr Joan Heagin, Godalming Town Council (Co-Optee)

Also Present

SGP17 MINUTES (Agenda item 2.)

The Committee agreed that the minutes of the meeting on 2 October 2023 were a complete and accurate record.

It was clarified that the minutes weren't presented to the previous Full Council meeting due to time constraints, and they would be reviewed at the meeting on 12 December 2023.

The Chair reminded Members that the first meeting of the Joint Constitutions Review Group would take place on 30 November 2023 and will be recorded for the reference of the Committee.

SGP18 DISCLOSURES OF INTERESTS (Agenda item 3.)

There were no Disclosures of Interests received.

SGP19 POLLING DISTRICT AND POLLING PLACES REVIEW 2023 (Agenda item 6.)

The Committee discussed the Polling District and Polling Place Review for 2023. The Electoral Services Manager outlined the review's process, public consultations, and the responses received. Three polling places were identified for change, and recommendations were made to the Committee for their consideration.

Cllr Beaman registered to speak about the Northwest Farnham 2 polling station, expressing a preference for the Hale Village Institute over the Foley Hill Infant

School. This was supported by reasons highlighting accessibility concerns and disruptions caused by school closures.

Following discussions and considerations from other members, the Committee was asked to make a recommendation for the polling place for Farnham Northwest 2. The Committee were in favor of recommending the Hale Village Institute, aligning with both public responses and local representatives' preferences.

The Chair asked the Committee to vote on the proposed polling place for Farnham Northwest 2, as Hale Village Institute Hall. The Committee were in unanimous agreement.

The Standards and General Purposes Committee therefore resolved to recommend that Full Council approves;

- (a) the polling place for Farnham North West 2 as Hale Village Institute Hall; and upon doing so**
- (b) that that Full Council approves the proposed polling districts and polling places as set out in appendix 1 to this report, including the polling place for Farnham North West 2.**

SGP2 TEMPORARY DESIGNATION OF POLLING PLACES IN CRANLEIGH EAST AND GODALMING BINSCOMBE & CHARTERHOUSE (Agenda item 7.)

The Committee raised concerns about the lack of parking capacity and the risk of overcrowding at the St John's Evangelist Church, the proposed Temporary Polling Place for Godalming Binscombe & Charterhouse.

There were suggestions from Cllrs Follows and Crowe to consider the use of the Broadwater Youth Centre site as a polling place. The Electoral Services Manager explained that the polling place was on the opposite end of Charterhouse ward and would not be easily accessible for voters in the Charterhouse area.

The Committee recommended that extra parking arrangements at (a) North Street Car Park and (b) The National Rail owned car park, Farncombe Station and extra marshalling should be secured beforehand.

Members agreed that the location was accessible for voters in both wards and there was agreement among members to support the officer's recommendation while emphasising the need for additional parking solutions. It was proposed to investigate the use of North Street Car Park, The Farncombe Station Car Park and other nearby parking options to mitigate potential parking issues at the designated polling place.

The Chairman invited the Committee to vote on the Officer's recommendation.
The vote was lost with a majority vote against.

Cllr Crowe proposed an amendment to part (c) of the recommendation;
“(c) Godalming Charterhouse – St John the Evangelist Church; contingent upon further suitable parking arrangements being sought.”

The amendment was carried with a unanimous vote in favour.

The Committee therefore resolved to recommend that the Council approves a temporary designation of polling places until the usual venues are available for:

- (a) Cranleigh East 1 – St Nicolas Church Rooms
- (b) Godalming Binscombe – Waverley Family Centre
- (c) Godalming Charterhouse – St John the Evangelist Church; contingent upon further suitable parking arrangements being sought.

SGP21 EXCLUSION OF PRESS AND PUBLIC (Agenda item 8.)

There were no exempt items to consider.

The meeting commenced at 6.00 pm and concluded at 6.36 pm

Chairman

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Waverley Borough Councils

Report to: Waverley Borough Council Standards and General Purposes Committee

Date: 8 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Senior Officer: Susan Sale, Joint Executive Head of Legal & Democratic Services

Author: Kisi Smith-Charlemagne, Senior Governance Officer

Tel: 01483 523027

Email: kisi.smith-charlemagne@waverley.gov.uk

Report Status: Open

Amendments to the Guildford Borough Council and Waverley Borough Council Joint Governance Committee Terms of Reference

1. Executive Summary

- 1.1 The Guildford Borough Council and Waverley Borough Council Joint Governance Committee (G&W JGC) was created in April 2022 and its Terms of Reference (TOR) can be found in Part 3 – (Appendix 2) of the Waverley Borough Council’s Constitution, and Part 3 – (Terms of Reference of the Council) of the Guildford Borough Council Constitution and in **Appendix 1** of this report.

- 1.2 At the request of the Joint Executive Head of Legal & Democratic Services, the TOR for the G&W JGC were reviewed to ensure they remained, relevant, fit for purpose and included any collaboration arrangement updates.
- 1.3 The amendments mainly focus on the inclusion of the Temporary Shared Staffing Inter Authority Agreement (IAA), periodic review periods, frequency of meetings, quorum, and procedures for electing a chairperson (in the absence of a Co-Chair) and voting. The amendments also include the rephrasing of text for clarity and correcting some minor typos.
- 1.4 A report was taken to the G&W JGC on 1 November 2023, where members of the committee reviewed, noted, and supported the proposed amendments. The G&W JGC made an additional recommendation, for a further amendment to the use of substitutes under clause 8; requesting that the respective Group Leaders nominate an ongoing main substitute.
- 1.5 A further report was taken to the G&W Joint Constitutions Review Group on the 30 November 2023, where members of the group approved the proposed amendments to the G&W JGC TOR and recommended the amended G&W JGC TOR to the Waverley Borough Council Standards & General Purposes Committee and GBC Corporate Governance & Standards Committee, with a recommendation that each of those Committees recommends the amended TOR to their full Council for adoption.
- 1.6 This report asks that the Waverley Borough Council Standards and General Purposes Committee approve the amendments to the G&W JGC TOR, with a recommendation that the committee recommends the amended TOR to full Council for adoption into the constitution.

2. Recommendations

That the Standards and General Purposes Committee resolves to:

2.1 approve the proposed amended terms of reference for the Guildford Borough Council and Waverley Borough Council Joint Governance Committee;

2.2 recommend the amended Guildford Borough Council and Waverley Borough Council Joint Governance Committee terms of reference to full Council for adoption into the constitution.

3. Reason(s) for Recommendation:

3.1 To ensure the council continues to adopt and exercise strong governance arrangements for inter-authority working.

4. Exemption from publication

4.1 No part of this report is exempt from publication.

5. Purpose of Report

5.1 This report asks the Standards and General Purposes Committee:

(a) To note the report and provide comments and feedback on the proposed amendments (**Appendix 2**) as outlined in the recommendations in section 2 of this report.

6. Strategic Priorities

6.1 The proposed amendments to the TOR for the G&W JGC support the council's corporate priorities and its commitment to inter authority working.

7. Background

7.1 The Joint Governance Committee was created in April 2022 and its Terms of Reference (TOR) can be found in Part 3 – Appendix 2 of the Waverley Borough Council's Constitution, Part 3 – (Terms of Reference of the Council) of the Guildford Borough Council Constitution and **Appendix 1** of this report.

- 7.2 **Appendix 2** of this report shows the proposed amendments to the current TOR with tracked changes, this includes the recommendation made by the Joint Governance Committee. The amendments mainly focus on the inclusion of the Temporary Shared Staffing IAA, periodic review periods, frequency of meetings, quorum, and procedures for electing a chairperson (in the absence of a Co-Chair) and voting. The amendments also include arrangements for working groups, sub-committees, the rephrasing of text for clarity and correcting some minor typos.
- 7.3 The TOR state (7) that the Joint Governance Committee frequency of meeting should be as and when required. The Joint Executive Head of Legal & Democratic Services has suggested that the frequency of the meeting should be a formal arrangement and the meetings should take place **as and when required but as least biannually**, in line with the Committee's responsibilities to review inter-authority working arrangements and risk assessments.
- 7.4 The TOR state (9) that the Joint Governance Committee include: '(i) To undertake periodically a formal review (at least once every 12 months) of the inter-authority agreement, ensuring it continues to be fit for purpose and recommending to both Full Councils any changes required.'
- 7.5 The Joint Executive Head of Legal & Democratic Services has suggested that the wording be amended to include the Temporary Shared Staff IAA '(i) To undertake periodically a formal review (*at least once every 12 months*) of the inter-authority agreement(**s**), ensuring **they** continue to be fit for purpose and recommends to both Full Councils any changes required.'
- 7.6 At the meetings of the Guildford and Waverley Executives held on 20 July and 5 September 2023 respectively, the Executives unanimously approved:

- i. The principle of sharing staff between Guildford Borough Council and Waverley Borough Council, on a temporary basis, where appropriate to support the collaboration programme.
- ii. Delegating authority to the Joint Chief Executive, to approve, subject to a business case, future temporary staff sharing arrangements between Guildford Borough Council and Waverley Borough Council, to support the collaboration and transformation programme.
- iii. Delegating authority to the Joint Executive Head of Legal and Democratic Services to enter into an agreement between Guildford Borough Council and Waverley Borough Council for the sharing of their staff on a temporary basis.

8. Equality and Diversity Implications

- 8.1 The Standards and General Purposes Committee will be responsible for having due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning governance arrangements.

9. Financial Implications

- 9.1 There are no financial implications arising from this report. Any proposals, projects, or suggestions from the groups with financial implications will either be contained within approved budgets or considered as part of the Service and Financial Planning cycle.

10. Legal Implications

- 10.1 Section 101(5) Local Government Act 1972 provides that two or more local authorities may discharge any of their functions jointly. The Joint Governance Committee is established by both Guildford Borough Council and Waverley Borough Council jointly to discharge their functions in accordance with the Committee's terms of reference.

11. Human Resource Implications

11.1 There are no direct human resource implications arising from this report.

12. Background Papers

12.1 Guildford Borough Council Constitution

12.2 Waverley Borough Council Constitution

12.3 20 July 2023: Report to GBC Executive on Temporary Shared Staffing

12.4 5 September 2023: Report to WBC Executive on Temporary Shared Staffing

12.5 1 November 2023: Report to G&W Joint Governance Committee

12.6 30 November 2023: Report to G&W Joint Constitutions Review Group

13. Appendices

Appendix 1: Current JGC TOR (as of July 2023)

Appendix 2: Proposed amended TOR (with tracked changes and comments from the Joint Governance Committee November 2023)

Appendix 3: Proposed amended TOR (without tracked changes November 2023)

Part 3 - Appendix 2 – Joint Committee Terms of Reference

Guildford Borough Council and Waverley Borough Council Joint Governance Committee – Composition and Terms of Reference

1. This Joint Committee is to be established by Guildford Borough Council and Waverley Borough Council (“the councils”) in accordance with Section 102 (1) (b) of the Local Government Act 1972 (Appointment of committees)
2. MEMBERS: 12
 - (a) The Joint Governance Committee shall comprise the respective Leaders of both councils, plus five members appointed by Guildford Borough Council and five members appointed by Waverley Borough Council
 - (b) Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990
3. QUORUM: 7 (subject to each council being represented at a meeting by at least three members)
4. CHAIR: The Joint Governance Committee shall be chaired alternately between the councils by their respective Leaders.
5. PLACE OF MEETINGS: The venue for meetings of the Joint Governance Committee shall normally alternate between the two councils with the host Leader chairing the meeting. The venue for the first meeting shall be at Guildford Borough Council’s offices.
6. GENERAL ROLE: Adopting and exercising such of the functions of the councils as can be delegated by those councils in respect of the governance arrangements for inter-authority working
7. FREQUENCY OF MEETINGS: As and when required
8. SUBSTITUTES: Substitutes may be appointed. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the Council they represent.
9. ROLE AND FUNCTION:
 - (i) To undertake periodically a formal review (at least once every 12 months) of the inter-authority agreement, ensuring it continues to be fit for purpose and recommending to both Full Councils any changes required.
 - (ii) To undertake periodically a formal review (at least once every 6 months) of the collaboration risk assessment, reviewing current and target impact and likelihood scores and making any changes to the list of risks and mitigating actions.
 - (iii) Notwithstanding (i) and (ii) above, to undertake a formal review of the inter-authority agreement or the collaboration risk assessment at such other time as may be determined by the Joint Committee.

- (iv) To discharge any other functions that relate to the governance of the inter-authority working arrangements that may from time to time be delegated to the Joint Committee.
10. SERVICING THE JOINT GOVERNANCE COMMITTEE: The servicing of the Joint Governance Committee shall be agreed between the Councils' Democratic Services Managers.
11. MEETINGS OF THE JOINT GOVERNANCE COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:
- (a) A meeting of the Joint Governance Committee shall be summoned by the relevant Proper Officer of the Council who shall give a minimum of five clear working days' notice (or less in the case of urgency)
 - (b) Meetings of the Joint Governance Committee shall be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with Section 100A (4) and (5) of the Local Government Act 1972 (as amended)
 - (c) The order of business at meetings of the Joint Governance Committee shall include the following:
 - (a) Apologies for Absence and notification of substitutes
 - (b) Disclosures of Interest
 - (c) Adoption of the Minutes of the previous meeting
 - (d) Matters set out in the agenda for the meeting
 - (e) Matters not set out in the agenda for the meeting but which the chairman agrees pursuant to Section 100B (4) (b) of the Local Government Act 1972 (as amended) should be considered at the meeting as a matter of urgency
 - (d) Any matter will be decided by a simple majority of those members of the Joint Governance Committee present and voting at the time the question was put. A vote shall be taken either by show of hands or, if there is no dissent, by the affirmation of the meeting.
 - (e) The Joint Governance Committee shall have no function or power delegated to it in any circumstance where a majority decision cannot be made without the need for the chairman or person presiding having to exercise their second or casting vote.

Part 3 - Appendix 2 – Joint Committee Terms of Reference

Guildford Borough Council and Waverley Borough Council Joint Governance Committee JOINT GOVERNANCE COMMITTEE – Composition and Terms of Reference

(Guildford Borough Council and Waverley Borough Council)

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1. This Joint Committee is to be established by Guildford Borough Council and Waverley Borough Council (“the councils”) in accordance with Section 10 ~~1 (5)2 (1)~~ ~~(b)~~ of the Local Government Act 1972 (Appointment of committees)
2. MEMBERS: 12
 - (a) The Joint Governance Committee shall comprise the respective Leaders of ~~each~~ ~~both~~ councils, plus five members appointed by Guildford Borough Council and five members appointed by Waverley Borough Council
 - (b) Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990 in respect of each council.
3. QUORUM: ~~74 members in total,~~ (subject to each council being represented at a meeting by at least ~~two~~ ~~three of their~~ members).
4. CHAIR: The Joint Governance Committee shall be chaired alternately between the councils by their ~~respective~~ Leaders of the Council, hosting the meeting, or in their absence, the Leader of the Council not hosting the meeting, or in both Leaders absence, the Chair shall be appointed by a majority vote of those members present and voting.
5. PLACE OF MEETINGS: The venue for meetings of the Joint Governance Committee shall normally alternate between the two councils with the host Leader chairing the meeting, but the venue may be varied by the Joint Monitoring Officer following consultation with the Leader of each Council. The venue for the first meeting shall be at Guildford Borough Council's offices.
6. GENERAL ROLE: Adopting and exercising such of the functions of the councils as ~~can~~ ~~may~~ be delegated by those councils in respect of the governance arrangements for inter-authority working between Guildford Borough Council and Waverley Borough Council.
7. FREQUENCY OF MEETINGS: As and when required, but at least bi-annually.
8. SUBSTITUTES: Substitutes may be appointed. The respective Group Leaders shall nominate an ongoing main substitute. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the ~~c~~ Council they represent.
9. ROLE AND FUNCTION:
 - (i) To undertake periodically a formal review (at least once every 12 months) of ~~the~~ all inter-authority agreements, between Guildford Borough Council and

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Appendix 2

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Waverley Borough Council, ensuring they continues to be fit for purpose and recommending to both Full Councils any changes required.

- (ii) To undertake periodically a formal review (at least once every 6 months) of the collaboration risk assessment, reviewing current and target impact and likelihood scores and making any changes to the list of risks and mitigating actions.
- (iii) Notwithstanding (i) and (ii) above, to undertake a formal review of the inter-authority agreements or the collaboration risk assessment at such other time as may be determined by the Joint Committee.
- (iv) To discharge any other functions that relate to the governance of the inter-authority working arrangements that may from time to time be delegated to the Joint Committee.
- (v) The Joint Governance Committee may arrange for the discharge of its functions by an Officer, of either Waverley Borough Council or Guildford Borough Council, and in doing so will set out clearly any limits upon such delegation.
- (vi) The Joint Governance Committee may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- ~~(iv)~~(vii) The Joint Governance Committee may establish a Sub-Committee consisting solely of Members of one Council to consider matters solely relating to that Council.

10. SERVICING THE JOINT GOVERNANCE COMMITTEE: The servicing of the Joint Governance Committee shall be agreed between the cCouncils' Democratic Services Managers.
11. MEETINGS OF THE JOINT GOVERNANCE COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:
 - (a) A meeting of the Joint Governance Committee shall be summoned by the relevant Proper Officer of the Council who shall give a minimum of five clear working days' notice (or less in the case of urgency)
 - (b) Meetings of the Joint Governance Committee shall be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with Section 100A (4) and (5) of the Local Government Act 1972 (as amended)
 - (c) The order of business at meetings of the Joint Governance Committee shall include the following:
 - (a) Apologies for Absence and notification of substitutes
 - (b) Disclosures of Interest
 - (c) Adoption of the Minutes of the previous meeting
 - (d) Matters set out in the agenda for the meeting

Appendix 2

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(e) Matters not set out in the agenda for the meeting but which the chairman agrees pursuant to Section 100B (4) (b) of the Local Government Act 1972 (as amended) should be considered at the meeting as a matter of urgency

(d) Any matter will be decided by a simple majority of those members of the Joint Governance Committee present and voting at the time the question was put. A vote shall be taken either by show of hands or, if there is no dissent, by the affirmation of the meeting. The chairman or person presiding shall have the ~~ne~~ casting vote.

~~(e) The Joint Governance Committee shall have no function or power delegated to it in any circumstance where a majority decision cannot be made without the need for the chairman or person presiding having to exercise their second or casting vote.~~

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Part 3 - Appendix 2 – Joint Committee Terms of Reference

JOINT GOVERNANCE COMMITTEE

(Guildford Borough Council and Waverley Borough Council)

1. This Joint Committee is to be established by Guildford Borough Council and Waverley Borough Council (“the councils”) in accordance with Section 101 (5) of the Local Government Act 1972 (Appointment of committees)
2. MEMBERS: 12
 - (a) The Joint Governance Committee shall comprise the respective Leader of each councils, plus five members appointed by Guildford Borough Council and five members appointed by Waverley Borough Council
 - (b) Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990 in respect of each council.
3. QUORUM: 4 members in total, subject to each council being represented at a meeting by at least two of their members.
4. CHAIR: The Joint Governance Committee shall be chaired alternately between the councils by the Leader of the Council, hosting the meeting, or in their absence, the Leader of the Council not hosting the meeting, or in both Leaders absence, the Chair shall be appointed by a majority vote of those members present and voting.
5. PLACE OF MEETINGS: The venue for meetings of the Joint Governance Committee shall normally alternate between the two councils with the host Leader chairing the meeting, but the venue may be varied by the Joint Monitoring Officer following consultation with the Leader of each Council. .
6. GENERAL ROLE: Adopting and exercising such of the functions of the councils as may be delegated by those councils in respect of the governance arrangements for inter-authority working between Guildford Borough Council and Waverley Borough Council.
7. FREQUENCY OF MEETINGS: As and when required, but at least bi-annually.
8. SUBSTITUTES: Substitutes may be appointed. The respective Group Leaders shall nominate an ongoing main substitute. Any appointed member of the Joint Governance Committee may be substituted by any other member of their political group on the council they represent.
9. ROLE AND FUNCTION:
 - (i) To undertake periodically a formal review (at least once every 12 months) of all inter-authority agreements, between Guildford Borough Council and Waverley Borough Council, ensuring they continue to be fit for purpose and recommending to both Full Councils any changes required.
 - (ii) To undertake periodically a formal review (at least once every 6 months) of the collaboration risk assessment, reviewing current and target impact and

likelihood scores and making any changes to the list of risks and mitigating actions.

- (iii) Notwithstanding (i) and (ii) above, to undertake a formal review of the inter-authority agreements or the collaboration risk assessment at such other time as may be determined by the Joint Committee.
- (iv) To discharge any other functions that relate to the governance of the inter-authority working arrangements that may from time to time be delegated to the Joint Committee.
- (v) The Joint Governance Committee may arrange for the discharge of its functions by an Officer, of either Waverley Borough Council or Guildford Borough Council, and in doing so will set out clearly any limits upon such delegation.
- (vi) The Joint Governance Committee may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (vii) The Joint Governance Committee may establish a Sub-Committee consisting solely of Members of one Council to consider matters solely relating to that Council.

10. **SERVICING THE JOINT GOVERNANCE COMMITTEE:** The servicing of the Joint Governance Committee shall be agreed between the councils' Democratic Services Managers.

11. **MEETINGS OF THE JOINT GOVERNANCE COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:**

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- (d) Any matter will be decided by a simple majority of those members of the Joint Governance Committee present and voting at the time the question was put. A vote shall be taken either by show of hands or, if there is no dissent, by the affirmation of the meeting. The chairman or person presiding shall have the casting vote.

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Waverley Borough Council

Report to: Standards and General Purposes Committee.

Date: 8 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Senior Officer: Susan Sale, Joint Executive Head of Legal & Democratic Services

Author: Kisi Smith-Charlemagne, Senior Governance Officer

Tel: 01483 523027

Email: kisi.smith-charlemagne@waverley.gov.uk

Report Status: Open

Review of the Waverley Borough Council Key Decision Financial Threshold

1. Executive Summary

- 1.1 As part of the current work programme to update the constitutions of both Guildford Borough Council (GBC) and Waverley Borough Council (WBC), the Joint Executive Head of Legal and Democratic Services (The Joint Monitoring Officer) has reviewed the current key decision financial thresholds for both Councils in line with both Council's Corporate priorities and Finance policies. The outcome of the review is that the threshold for Guildford Borough Council is considered appropriate and no changes are recommended but that the threshold for Waverley Borough Council seems disproportionately low and it is advised could be increased, as set out in section 2 of this report and **Appendix 1**.

- 1.2 The proposed increase of the Waverley Borough Council key decision threshold would enable the Council to embrace more agile and timely decision making, whilst maintaining appropriately robust governance, and being in line with other modern Councils with similar demographics.
- 1.3 This report asks the Standards and General Purposes Committee to consider the report and the suggested increase to the key decision financial threshold for Waverley Borough Council, as set out in section 2 of this report. This report also seeks the Standards and General Purposes Committee's support and its agreement to recommend the changes to amend Article 12 to full Council for formal adoption into the Council's constitution.
- 1.4 A report on the proposed key decision financial threshold for Waverley Borough Council was taken to the G&W Joint Constitutions Review Group on the 30 November 2023. Members noted that the current key decision threshold of £100,000 had remained at the current level for quite some time, and it had not changed with inflation or with any funding received and it should be aligned with other similar councils. The members of the group welcomed the proposal.

2. Recommendations to the Standards and General Purposes Committee

That the Standards and General Purposes Committee resolves to:

- 2.1 Note and consider the report and the proposal to increase the financial threshold of a key decision at Waverley Borough Council from £100,000 to £200,000 and to amend Article 12 of the Constitution.
- 2.2 Recommend to full Council that they consider the proposed increase of the financial threshold of a key decision at Waverley Borough

Council from £100,000 to £200,000 and recommend approval of such an amendment to full Council.

- 2.3 Recommend to full Council that they consider the proposed amended Article 12, as set out in **Appendix 1** of this report, and recommend that full Council formally adopt it into the Waverley Borough Council constitution with immediate effect.

3. Reason(s) for Recommendation:

- 3.1 The proposed increase will allow Waverley Borough Council to operate more astutely and in an agile manner, whilst maintaining robust governance and transparency with its decision making, in line with other modern Councils with similar demographics.
- 3.2 The Monitoring Officer is required to review the Constitution of both GBC and WBC each year to ensure that the aims and principles are given full effect in accordance with Article 16 of the GBC Constitution and Article 11 of the WBC Constitution.
- 3.3 To commence work on the review of both Guildford Borough Council and Waverley Borough Council's Constitutions, with an overall objective of aligning key parts thereof, where appropriate and beneficial to both Councils, to do so.

4. Exemption from publication

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

5. Purpose of Report

- 5.1 This report asks the Standards and General Purposes Committee;
 - (a) To discuss and consider the proposal to increase the key decision financial threshold for WBC.

- (b) To agree to recommend the key decision threshold increase and subsequent amendment of Article 12 of the WBC constitution to WBC's full Council.

6. Strategic Priorities

- 6.1 The increase of the WBC key decision financial threshold is aligned with the Council's strategic priorities and will assist in the delivery of the Council's Corporate Plan. It is also consistent with the Council's Transformation & Collaboration Programme.

7. Background

- 7.1 The WBC constitution currently provides in Article 12 that a 'key decision' means an executive decision that is likely to result in the local authority incurring expenditure or making savings of above £100,000 and/or be significant in terms of its effects on communities living or working in an area comprising two or more wards. A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules and Access to Information Procedure Rules set out in Part 4 of the Constitution.
- 7.2 The WBC's current key decision financial threshold of £100, 000 has not been reviewed for some time and would appear to no longer be appropriate in terms of the financial context of size of the Council, nor aligned with other similar Councils.
- 7.3 Inflationary pressures have seen a significant increase in the cost of conducting business and this has impacted on a number of council projects already under way. The increased cost has meant that Officers have been required to produce additional reports, often coming back to the Executive for additional funds, resulting in the Executive becoming inundated with key decisions.
- 7.4 The proposed increase of the threshold from £100,000 to £200,000 will mean that only the more significant decisions in terms of financial or local impact are legally required to be published for the longer period

of 28 days, prior to being taken by the decision maker, (whether that is the Executive, Individual Executive Members or Officers under delegated authority). However, it should be noted that if an Executive decision to be made by the Executive, is exempt, it is required to be published on the forward plan, regardless of whether it is key or not. Further, certain executive decisions may be implemented more swiftly as decisions of up to £200,000 would no longer be key decisions and would not therefore require the statutory 28 days' notice.

- 7.5 The current threshold of £100,000 is out of kilter with the decision-making thresholds in other similar Borough Councils, see **Appendix 3**. Most WBC decisions require Executive approval which means that the Executive agenda can be lengthy and regularly concerned with relatively low-value key decisions and contract awards.

8. Equality and Diversity Implications

- 8.1 There are not equality and diversity implications. The Standards and General Purposed Committee will be responsible for having due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning constitutional arrangements.

9. Financial Implications

- 9.1 There would be no additional costs arising from this report or from increasing the key decision threshold at WBC.

10. Legal Implications

- 10.1 Paragraph 8 of the *Local Authorities (Executive Arrangements) (Meetings & Access to Information) (England) Regulations 2012* provide that a “key decision” is one which is likely to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority’s budget for the service or function to which the decision relates, or to be significant in terms of its effects on communities living or working in an area

comprising two or more wards or electoral divisions in the area of the relevant local authority.

10.2 Article 12 of the Waverley Borough Council constitution currently provides at paragraph 12.3 (b) that a key decision means an executive decision that is likely to result in the local authority incurring expenditure or making savings of above £100,000 and/or be significant in terms of its effects on communities living or working in an area comprising two or more wards.

10.3 It is for the Council to determine the financial threshold relating to the definition of “significant”.

11. Human Resource Implications

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

12. Summary of Options

12.1 The Standards and General Purposes is invited to consider the background information and provide comments to support the proposal to increase WBC’s key decision threshold as **Appendix 1**.

13. Background Papers

Waverley Borough Council Constitution
Guildford Borough Council Constitution
Report to Joint Constitutions Review Group: 30 November 2023

14. Appendices

Appendix 1: The proposed amendments to Waverley Borough Council Constitution – Article 12 Decision Making

Appendix 2: The current Guildford Borough Council Constitution – Article 14 Decision Making

Appendix 3: Table containing examples of other Borough Council’s Key decision financial thresholds.

Article 12 – Decision making

12.1 Responsibility for decision-making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

12.2 Principles of decision-making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e., the action must be proportionate to the desired outcome)
- (b) respect for human rights
- (c) a presumption in favour of openness
- (d) clarity of aims and desired outcomes
- (e) that members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions
- (f) that decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation
- (g) that relevant matters are fully considered in decision-making, and nothing irrelevant is taken into account
- (h) that the Council's constitution is fully complied with
- (i) that decisions are recorded by officers and published, together with the reasons and relevant background papers

12.3 Types of decision

- (a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Table 1 of Part 3 of this Constitution will be made by the Full Council and not delegated.
- (b) **Key Decisions:**
 - (i) A 'key decision' means an executive decision that is likely to result in the local authority incurring expenditure or making savings of above £200,000 and/or
 - (ii) be significant in terms of its effects on communities living or working in an area comprising two or more wards.
 - (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules and Access to Information Procedure Rules set out in Part 4 of this Constitution.

12.4 Decision making

All decision making must comply with the relevant Articles and Procedure Rules set out in this Constitution.

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ARTICLE 14 – DECISION MAKING

14.1 Responsibility for Decision-Making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

14.2 Principles of Decision-Making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e., the action must be proportionate to the desired outcome)
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights
- (d) a presumption in favour of openness
- (e) clarity of aims and desired outcomes; and
- (f) providing information on the options considered and giving reasons for the decisions taken

14.3 Types of Decision

(a) Decisions Reserved to Full Council

Decisions relating to the functions listed in Article 4.2 will be made by the Full Council and not delegated.

(b) Key Decisions

- (i) A 'key decision' means an executive decision that is likely to:
 - result in expenditure or savings of above £200,000 and/or
 - have a significant impact on two or more wards in the Borough.
- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

14.4 Decision-Making

All decision making must comply with the relevant Articles and Procedure Rules set out in this Constitution.

14.5 Decision-Making by Council Bodies Acting as Tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

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LA	Population '000	2023 Revenue Expenditure (£m)	Key Decision '000
Norwich	143	22.3	500
Oxford	160	25.3	500
Spelthorne	102	23.6	250
Woking	103	0	250
Reigate & Banstead	150	21.4	250
East Hampshire	125	22.1	250
Epping Forest	134	21.8	250
Winchester	127	27.9	250
Adur	64	14.7	250
Worthing	111	14.7	250
Guildford	143	17.5	200
West Oxfordshire	114	14.1	150
Waverley	128	20.2	100
Surrey Heath	90	18.5	100
Mole Valley	87	12	100
Brentwood	77	10.8	100
South Oxfordshire	149	0	75
Vale of White Horse	138	0	75
Sevenoaks	120	22	50

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Waverley Borough Councils

Report to: Standards and General Purposes Committee

Date: 8 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Senior Officer: Susan Sale, Joint Executive Head of Legal & Democratic Services

Author: Kisi Smith-Charlemagne, Senior Governance Officer

Tel: 01483 523027

Email: kisi.smith-charlemagne@waverley.gov.uk

Report Status: Open

Waverley Borough Council Pre-Election Publicity & Decision Making Policy

1. Executive Summary

- 1.1 A report was taken to GBC full Council on 5 April 2022 and to WBC full Council on the 26 April 2022, recommending the adoption of the current Pre-Election Publicity Policy which is attached as **Appendix 1** of this report. The policy is identical for both councils.
- 1.2 The main purpose of the existing policy is to protect the interests of the Council, and to provide guidance to Councillors and Officers on publicity and the use of Council resources during the pre-election period.

- 1.3 A key aspect of the existing Policy is to limit the Council and Committee meetings during the pre-election period. Specifically:
- Regular Full Council, Executive, and Committee meetings (excluding Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) will not be scheduled during the pre-election period;
 - Where an unscheduled election is called, meetings scheduled to take place in the pre-election period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) may be cancelled if it is considered by the Joint Chief Executive prudent to do so; and
 - Extraordinary Full Council and/or Special Committee meetings will be arranged if, in the opinion of the Joint Chief Executive and Monitoring Officer, it is considered to be in the Council's interests to hold them for urgent items of business.
- 1.4 However, after further careful review and consideration, it is proposed that the Pre-Election Publicity & Decision Making Policy be amended to provide more flexibility for the Proper Officers of the Council to assess and decide which council meetings can be held during the pre-election period on a case-by-case basis. Such an approach provides the Proper Officers with the flexibility to take into account whether the forthcoming election is in respect of Borough elections, or another election, and the level of politically sensitivity around each election which could impact on Council business.
- 1.5 This report recommends the adoption of a revised Pre-Election Period Publicity & Decision Making Policy, attached as **Appendix 2** of this report with tracked changes, and a clean version of the Policy attached as **Appendix 3** of this report. The amended policy focuses on the Pre-Election published guidance by the DCLG and LGA which emphasizes that councils should continue to discharge normal council business i.e., 'Business as usual'.

- 1.6 A report on the attached revised Pre-Election Period Publicity & Decision Making Policy was taken to the Guildford and Waverley Joint Constitutions Review Group on 18 December 2024. Members of the Group discussed the proposal and welcomed the amendments to the policy, noting that it was a sensible approach and provided the council with flexibility for Responsible Officers, in consultation with Group Leaders to decide if it was appropriate for a council meeting to take place, rather than a blanket approach.
- 1.7 This report asks the Standards and General Purposes Committee to consider the amendments to the Pre-Election Publicity & Decision-Making Policy and to recommend the amendments to full Council for adoption.
- 1.8 A similar report will be taken to the Guildford Borough Council Corporate Governance & Standards Committee on 18 January 2024, where it will be proposed that the attached amended Pre-Election Publicity & Decision-Making Policy be recommended to the Guildford Borough full Council for adoption.

2. Recommendations

That the Standards and General Purposes Committee resolves to:

- 2.1 Approve the proposed amendments to the Pre-Election Publicity & Decision Making Policy;
- 2.2 Recommend the amended Pre-Election Publicity & Decision Making Policy to full Council for adoption with immediate effect.

3. Reason(s) for Recommendation:

- 3.1 To protect the interests of the Council, and to provide guidance to Councillors and Officers on publicity and the use of Council resources during the pre-election period.

3.2 To provide further flexibility for the Council's Proper Officers to assess and decide which council meetings can be held during the pre-election period.

4. Exemption from publication

4.1 No part of this report is exempt from publication.

5. Purpose of Report

5.1 This report asks the Standards and General Purposes Committee:

- (a) To note the report and provide comments and feedback on the proposed amendments (**Appendix 2 and 3**) as outlined in the recommendations in section 2 of this report.

6. Strategic Priorities

6.1 The recommended revised policy continues to support the Council's strategic plan commitment to open, democratic and participative governance.

7. Background

7.1 The pre-election period is the period prior to an election. There are statutory restrictions that apply to Council publicity during the pre-election period.

7.2 The Pre-Election Publicity & Decision Making Policy seeks to ensure that the Council acts lawfully in relation to the use of Council resources in the lead up to an election, to provide guidance to Councillors and Officers and to limit Council and Committee meetings and other decision making which takes place during the pre-election period to those which are strictly necessary and/or business as usual. The pre-election period is the period of approximately 6 weeks prior to an election. There are statutory restrictions that apply to Council publicity during the pre-election period.

- 7.3 The Council must comply at all times with restrictions outlined in Section 2 of the Local Government Act 1986 which says the Councils should “not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party”. Publicity is defined as “any communication, in whatever form, addressed to the public at large or to a section of the public.”
- 7.4 In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 makes it clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Code of Practice recommends that councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
- 7.5 The Pre-Election Publicity & Decision Making Policy (‘the Policy’) seeks to ensure that the Council acts lawfully in relation to the use of Council resources in the lead up to an election, to provide guidance to Councillors and Officers and to limit Council and Committee meetings and other decision making which takes place during the pre-election period to those which are strictly necessary and business as usual.
- 7.6 The Policy defines what is covered by ‘publicity’ and sets out in detail what is and is not an acceptable use of Council resources during the pre-election period. Quotes included in press releases and statements issued in response to media enquiries should generally be attributed to Officers during the pre-election period or the Mayor when an elected Councillor response is required. Particular care should be taken by Officers in relation to the Council’s social media accounts during the pre-election period.

8. Equality and Diversity Implications

- 8.1 The Standards and General Purposes Committee will be responsible for having due regard to the requirements of the Public Sector Equality

Duty (Equality Act 2010) when making any recommendations concerning governance arrangements.

9. Financial Implications

9.1 There are no financial implications arising from this report.

10. Legal Implications

10.1 The legal position in relation to the legislation and related Code is set out within paragraphs 7.3 and 7.4 for this report. The purpose of policy in any context is to support consistency of decision-making in any area, and in relation to pre-election publicity the policy will continue to support consistency as well as transparency and structure of decision-making in relation to such matters.

11. Human Resource Implications

11.1 There are no direct human resource implications arising from this report.

12. Background Papers

12.1 5 April 2022: Report to WBC Council on the Pre-Election Publicity Policy

13. Appendices

Appendix 1: Current Pre-Election Publicity & Decision Making Policy (as of April 2022)

Appendix 2: Proposed amended Pre-Election Publicity & Decision Making Policy (with tracked changes December 2023)

Appendix 3: Proposed amended Pre-Election Publicity & Decision
Making Policy (without tracked changes December 2023)

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Pre-election period publicity and decision-making Policy for all Elections conducted in the Borough of Waverley

1. This Policy applies from the date of the publication of the Notice of Election until after polls close being the period when Pre-election Period publicity restrictions apply. This policy restricts the Council and its officers during the pre-election period; it does not fetter candidates and councillors from their own political campaigning when doing so using their own resources.

Statutory requirements

2. There are statutory restrictions that apply to Council publicity before all elections. Although it should be *business as usual* in relation to decision-making, there are also some important sensitivities and conventions that councillors and officers should follow to reduce the risk of legal challenge being brought against the Council.
3. The Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986 ('the Act'). In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 ("the Code of Practice") makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as **"any communication, in whatever form, addressed to the public at large or to a section of the public."**
4. Section 2 of the Act says that we should **"not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party."** The Code of Practice recommends that Councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
5. The Code of Practice recommends that communications are issued with care during periods of heightened sensitivity.

Publicity

6. The Council must not issue:
 - proactive publicity of candidates and other politicians involved directly in the elections (this includes a candidate, agent, proposer, seconder, or assenter) who are named in the published Statement of Persons Nominated notice for the elections (but see also the section on the mayoralty below)

- publicity that deals with controversial issues that could specifically be linked to a relevant issue in the elections. If this cannot be avoided, the publicity should present issues clearly and fairly with opposing points of views represented.
- publicity that reports views in such a way that clearly identifies them with individual members or groups of members directly involved in the elections.

7. Publicity includes:

- news releases and media enquiries
- emails, online and printed newsletters
- banners, posters, leaflets, booklets and publications
- social media information - such as postings on Facebook or Twitter – including video and audio clips and photographs
- consultation information
- information on our website

8. However, the Council can:

- respond to enquiries from the media provided that the answers given are factual and not party political
- if needed, publish factual information which identifies the names, wards and parties of candidates
- comment on a relevant issue where there is a genuine need for a councillor-level response to an important event outside of the Council's control or in relation to reactive media releases, with a response by a relevant lead officer
- continue with *business as usual* officer decision making and urgent meetings if required.

9. During the pre-election period the Council will avoid:

- **including councillors or persons directly involved in the election in any publicity** other than the factual information referred to above - relevant lead officers may be quoted instead as necessary
- organising photo opportunities or events which could be seen as giving candidates, councillors or other political office holders a platform for political comment

- publications, events or promotions, and postpone them until after the elections if proceeding could give the appearance of seeking to affect support for a political party or candidate involved in the elections
- commenting on matters of political controversy unless to refrain from comment would, in the opinion of the Joint Chief Executive and Monitoring Officer, be harmful to the Council's reputation and best interests
- references in publications to the period the current administration has been in office or to the Council's future commitments, if to do so could be seen to affect support for a political party or candidate involved in the elections

Social media

10. The following guidance applies to all Council social media channels that are managed and monitored by Council officers. These rules apply generally at all times but some need more careful consideration during the pre-election period.

11. Officers must not:

- Share content from political parties, councillors or politicians (but see also the section on the mayoralty below).
- Add content on matters that are politically controversial.
- Post, tweet, or share text, images, or video of political parties, councillors, politicians or subjects that are politically controversial.
- Start a significant digital campaign, unless it can be demonstrated that this was included in the communications schedule before the election was called and is not politically controversial

Decision making and Committee Meetings

12. The principle of the Council carrying on with *business as usual* during the pre-election period is subject to the wider context of pre-election sensitivity as to publicity.

Specifically:

- Regular Full Council, Executive, and Committee meetings (excluding Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) will not be scheduled during the Pre-election Period;
- Where an unscheduled election is called, meetings scheduled to take place in the Pre-election Period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) may be

cancelled if it is considered by the Joint Chief Executive prudent to do so; and

- Extraordinary Full Council and/or Special Committee meetings will be arranged if, in the opinion of the Joint Chief Executive and Monitoring Officer, it is considered to be in the Council's interests to hold them for urgent items of business.

Public Consultation

13. Public consultation exercises should generally not take place during the Pre-election Period, unless not to do so would be harmful to the Council best interests or unlawful.
14. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether a public consultation exercise should take place or not.

Third parties

15. The restrictions on publicity in an election period apply to publicity issued by third parties if they are assisted by Council funding. For example, where it could be shown that Council funding is being used to pay for a charity's publicity, the Council will take reasonable steps to ensure that that organisation complies with this pre-election period policy.

The Mayoralty and Council events

16. The Mayoralty is considered to be politically neutral and where, during the pre-election period, an elected Councillor response is required the Mayor should be the spokesperson.
17. Council communications including Social media posts by and about the Mayor can continue as long as they are not of a political nature.
18. The Council should avoid holding events which could give the appearance of seeking to affect support for a political party or candidate involved in the elections. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether an event should be deferred or not.

Requests for Information

19. The Council is still legally required to respond to requests for information under Freedom of Information and related legislation. The Council should continue to ensure that all requests are treated even-handedly, with no preference shown to a particular group or party.

Elected councillors

20. Please note that the pre-election period restrictions generally relate to the Council and publicity in that period and not to individual councillors.
21. This means that individual councillors or political parties may contact the press directly, respond to their calls and set up their own photo shoots and publicity to promote a candidate or political party in the elections. However, they may not use the Council's resources (including ICT resources and email accounts), premises or facilities to do so. Councillors who breach or attempt to breach the restrictions or who put pressure on officers to break these rules may be in breach of the Councillors' Code of Conduct.

Council officers

22. Officers should take care in responding to requests for ad hoc meetings of a public nature to ensure that they are required only for the proper discharge of the Council's business.
23. Officers should not supply Council photographs or other materials to councillors or anyone directly involved in the election, unless they have verified that they will not be used for campaigning purposes.
24. Officers should exercise caution if invited to any event in which election candidates participate. They should seek the Monitoring Officer's advice in such circumstances.
25. Those officers who are in politically restricted posts must refrain from taking part in canvassing or campaigning for a political candidate or party.
26. *Business as usual* officer decisions may continue be taken. However, politically controversial items may be deferred until after the election if to continue would, in the opinion of the Joint Chief Executive, the Borough Returning Officer and the Monitoring Officer, be harmful to the conduct of the election.

Risks

27. If these rules about publicity are broken, the Council could be subject to legal challenge and, in a worst-case scenario, election results could be invalidated. Officers who fail to observe the rules may be liable to disciplinary action.

By-Elections

28. Although the full pre-election publicity procedures set out in the Policy will not be appropriate for ward by-elections, the Council and its officers will exercise extra caution and may apply some of the principles of this policy.

Useful Links

The Code of Recommended Practice on Local Authority Publicity

[Recommended code of practice for local authority publicity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422222/Recommended_code_of_practice_for_local_authority_publicity.pdf)

Local Government Association (LGA) – pre-election period overall section

[Pre-election period | Local Government Association](https://www.local.gov.uk/pre-election-period)

LGA short guide to publicity during the pre-election period

[A short guide to publicity during the pre-election period | Local Government Association](https://www.local.gov.uk/pre-election-period)

**Pre-election period publicity and decision-making Policy for
all Elections conducted in the Borough of Waverley**

1. This Policy applies from the date of the publication of the Notice of Election until after polls close being the period when Pre-election Period publicity restrictions apply. This policy restricts the Council and its officers during the pre-election period; it does not fetter candidates and councillors from their own political campaigning when doing so using their own resources.

Statutory requirements

2. There are statutory restrictions that apply to Council publicity before all elections. Although it should be *business as usual* in relation to decision-making, there are also some important sensitivities and conventions that councillors and officers should follow to reduce the risk of legal challenge being brought against the Council.
3. The Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986 ('the Act'). In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 ("the Code of Practice") makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as **"any communication, in whatever form, addressed to the public at large or to a section of the public."**
4. Section 2 of the Act says that we should **"not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party."** The Code of Practice recommends that Councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
5. The Code of Practice recommends that communications are issued with care during periods of heightened sensitivity.

Publicity

6. The Council must not issue:
 - proactive publicity of candidates and other politicians involved directly in the elections (this includes a candidate, agent, proposer, seconder, or assenter) who are named in the published Statement of Persons Nominated notice for the elections (but see also the section on the mayoralty below)

APPENDIX 2

- publicity that deals with controversial issues that could specifically be linked to a relevant issue in the elections. If this cannot be avoided, the publicity should present issues clearly and fairly with opposing points of views represented.
- publicity that reports views in such a way that clearly identifies them with individual members or groups of members directly involved in the elections.

7. Publicity includes:

- news releases and media enquiries
- emails, online and printed newsletters
- banners, posters, leaflets, booklets and publications
- social media information - such as postings on Facebook or Twitter – including video and audio clips and photographs
- consultation information
- information on our website

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8. However, the Council can:

- respond to enquiries from the media provided that the answers given are factual and not party political
- if needed, publish factual information which identifies the names, wards and parties of candidates
- comment on a relevant issue where there is a genuine need for a councillor-level response to an important event outside of the Council's control or in relation to reactive media releases, with a response by a relevant lead officer
- continue with *business as usual* Council, Executive, and Committee meetings, officer decision making and urgent meetings if required subject to the proviso that the business to be transacted at those meetings does not, in the view of the Monitoring Officer, contravene the provisions of this policy.

Commented [JA1]: See para 26 which refers to officer decision making

9. During the pre-election period the Council will avoid:

- **including councillors or persons directly involved in the election in any publicity** other than the factual information referred to above - relevant lead officers may be quoted instead as necessary
- organising photo opportunities or events which could be seen as giving candidates, councillors or other political office holders a platform for political comment

APPENDIX 2

- publications, events or promotions, and postpone them until after the elections if proceeding could give the appearance of seeking to affect support for a political party or candidate involved in the elections
- commenting on matters of political controversy unless to refrain from comment would, in the opinion of the Joint Chief Executive and Monitoring Officer, be harmful to the Council's reputation and best interests
- references in publications to the period the current administration has been in office or to the Council's future commitments, if to do so could be seen to affect support for a political party or candidate involved in the elections

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Social media

10. The following guidance applies to all Council social media channels that are managed and monitored by Council officers. These rules apply generally at all times but some need more careful consideration during the pre-election period.

11. Officers must not:

- Share content from political parties, councillors or politicians (but see also the section on the mayoralty below).
- Add content on matters that are politically controversial.
- Post, tweet, or share text, images, or video of political parties, councillors, politicians or subjects that are politically controversial.
- Start a significant digital campaign, unless it can be demonstrated that this was included in the communications schedule before the election was called and is not politically controversial.

Decision making and Committee Meetings

12. The principle of the Council carrying on with *business as usual* during the pre-election period is subject to the wider context of pre-election sensitivity as to publicity. Therefore, depending on the type of election or referendum called, in relation to decision making within the council, the position remains that it is *business as usual* unless there are very good reasons why this should not be the case.

Specifically:

- Regular Full Council, Executive, and Committee meetings (excluding Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) will be scheduled as usual not be scheduled during the Pre-election Period;

- ~~Meetings of the Regular Full Council, Executive, and other Committees meetings (including extraordinary and special meetings) may be scheduled with the approval of the in-consultation with the Joint Chief Executive Officer and Monitoring Officer.~~
- ~~However, any meetings, formal decisions, Council motions or scrutiny projects on issues which are it is considered to have the potential to be politically contentious may be re-scheduled until after the pre-election period has ended, unless it is required by law to undertake them, or it's necessary to decide the matter to meet a statutory timetable. This will avoid the risk of the decision-making process being skewed or otherwise affected.~~
- Where an unscheduled election is called, meetings scheduled to take place in the Pre-election Period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) **may be cancelled** if it is considered by the Monitoring Officer ~~Joint Chief Executive~~ prudent to do so. ~~and~~
- ~~Extraordinary Full Council and/or Special Committee meetings will be arranged if, in the opinion of the Joint Chief Executive and Monitoring Officer, it is considered to be in the Council's interests to hold them for urgent items of business.~~

Public Consultation

13. Public consultation exercises should generally not take place during the Pre-election Period, unless not to do so would be harmful to the Council best interests or unlawful.
14. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether a public consultation exercise should take place or not.

Third parties

15. The restrictions on publicity in an election period apply to publicity issued by third parties if they are assisted by Council funding. For example, where it could be shown that Council funding is being used to pay for a charity's publicity, the Council will take reasonable steps to ensure that that organisation complies with this pre-election period policy.

The Mayoralty and Council events

APPENDIX 2

16. The Mayorality is considered to be politically neutral and where, during the pre-election period, an elected Councillor response is required the Mayor should be the spokesperson.
17. Council communications including Social media posts by and about the Mayor can continue as long as they are not of a political nature.
18. The Council should avoid holding events which could give the appearance of seeking to affect support for a political party or candidate involved in the elections. The Joint Chief Executive, in consultation with the Monitoring Officer, will make the final decision in relation to whether an event should be deferred or not.

Requests for Information

19. The Council is still legally required to respond to requests for information under Freedom of Information and related legislation. The Council should continue to ensure that all requests are treated even-handedly, with no preference shown to a particular group or party.

Elected councillors

20. Please note that the pre-election period restrictions generally relate to the Council and publicity in that period and not to individual councillors.
21. This means that individual councillors or political parties may contact the press directly, respond to their calls and set up their own photo shoots and publicity to promote a candidate or political party in the elections. However, they may not use the Council's resources (including ICT resources and email accounts), premises or facilities to do so. Councillors who breach or attempt to breach the restrictions or who put pressure on officers to break these rules may be in breach of the Councillors' Code of Conduct.

Council officers

22. Officers should take care in responding to requests for ad hoc meetings of a public nature to ensure that they are required only for the proper discharge of the Council's business.
23. Officers should not supply Council photographs or other materials to councillors or anyone directly involved in the election, unless they have verified that they will not be used for campaigning purposes.
24. Officers should exercise caution if invited to any event in which election candidates participate. They should seek the Monitoring Officer's advice in such circumstances.

25. Those officers who are in politically restricted posts must refrain from taking part in canvassing or campaigning for a political candidate or party.

26. *Business as usual* officer decisions may continue to be taken. However, politically controversial items may be deferred until after the election if to continue would, in the opinion of the Joint Chief Executive, the Borough Returning Officer and the Monitoring Officer, be harmful to the conduct of the election.

Risks

27. If these rules about publicity are broken, the Council could be subject to legal challenge and, in a worst-case scenario, election results could be invalidated. Officers who fail to observe the rules may be liable to disciplinary action.

By-Elections

28. Although the full pre-election publicity procedures set out in the Policy will not be appropriate for ward by-elections, the Council and its officers will exercise extra caution and may apply some of the principles of this policy.

Useful Links

The Code of Recommended Practice on Local Authority Publicity

[Recommended code of practice for local authority publicity - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422222/recommended-code-of-practice-for-local-authority-publicity.pdf)

Local Government Association (LGA) – pre-election period overall section

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Pre-Election Period Publicity and Decision-Making Policy for all Elections conducted in the Borough of Waverley / Borough of Guildford

1. This Policy applies from the date of the publication of the Notice of Election until after polls close being the period when pre-election period publicity restrictions apply. This Policy restricts the Council and its officers during the pre-election period; it does not fetter candidates and councillors from their own political campaigning when doing so using their own resources.

Statutory requirements

2. There are statutory restrictions that apply to Council publicity before all elections. Although it should be *business as usual* in relation to decision-making, there are also some important sensitivities and conventions that councillors and officers should follow to reduce the risk of legal challenge being brought against the Council.
3. The Council must comply with restrictions outlined in Section 2 of the Local Government Act 1986 ('the Act'). In addition, a Code of Recommended Practice on Local Authority Publicity published in 2011 ("the Code of Practice") makes clear that particular care should be taken in periods of heightened sensitivity, such as in the run up to an election. The Act defines publicity as **"any communication, in whatever form, addressed to the public at large or to a section of the public."**
4. Section 2 of the Act says that we should **"not publish any material which, in whole, or in part, appears to be designed to affect public support for a political party."** The Code of Practice recommends that Councils should generally not issue any publicity which seeks to influence voters and that publicity relating to candidates and politicians involved directly in the election should not be published unless expressly authorised by statute.
5. The Code of Practice recommends that communications are issued with care during periods of heightened sensitivity.

Publicity

6. The Council must not issue:
 - proactive publicity of candidates and other politicians involved directly in the elections (this includes a candidate, agent, proposer, seconder, or assenter) who are named in the published Statement of Persons Nominated notice for the elections (but see also the section on the mayoralty below)

- publicity that deals with controversial issues that could specifically be linked to a relevant issue in the elections. If this cannot be avoided, the publicity should present issues clearly and fairly with opposing points of views represented.
- publicity that reports views in such a way that clearly identifies them with individual members or groups of members directly involved in the elections.

7. Publicity includes:

- news releases and media enquiries
- emails, online and printed newsletters
- banners, posters, leaflets, booklets and publications
- social media information - such as postings on Facebook or Twitter – including video and audio clips and photographs
- consultation information
- information on our website

8. However, the Council can:

- respond to enquiries from the media provided that the answers given are factual and not party political
- if needed, publish factual information which identifies the names, wards and parties of candidates
- comment on a relevant issue where there is a genuine need for a councillor-level response to an important event outside of the Council's control or in relation to reactive media releases, with a response by a relevant lead officer
- continue with *business as usual* Council, Executive, and Committee meetings, subject to the proviso that the business to be transacted at those meetings does not, in the view of the Monitoring Officer, contravene the provisions of this policy.

9. During the pre-election period the Council will avoid:

- **including councillors or persons directly involved in the election in any publicity** other than the factual information referred to above - relevant lead officers may be quoted instead as necessary
- organising photo opportunities or events which could be seen as giving candidates, councillors or other political office holders a platform for political comment

- publications, events or promotions, and postpone them until after the elections if proceeding could give the appearance of seeking to affect support for a political party or candidate involved in the elections
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Specifically:

- Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee will be scheduled as usual during the Pre-election Period;

Meetings of the Full Council, Executive, and other Committees (including extraordinary and special meetings) may be scheduled with the approval of the Monitoring Officer.

- However, any meetings, formal decisions, Council motions or scrutiny projects on issues which are considered to have the potential to be politically contentious may be re-scheduled until after the pre-election period has ended, unless it is required by law to undertake them, or it's necessary to decide the matter to meet a statutory timetable.
- Where an unscheduled election is called, meetings scheduled to take place in the Pre-election Period (other than meetings of the Planning Committee, Licensing Sub-Committee and Licensing Regulatory Sub-Committee) may be cancelled if it is considered by the Monitoring Officer prudent to do so.

Public Consultation

13. Public consultation exercises should generally not take place during the Pre-election Period, unless not to do so would be harmful to the Council best interests or unlawful.
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Waverley Borough Councils

Report to: Standards and General Purposes Committee

Date: 8 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Senior Officer: Susan Sale, Joint Executive Head of Legal & Democratic Services

Author: Kisi Smith-Charlemagne, Senior Governance Officer

Tel: 01483 523027

Email: kisi.smith-charlemagne@waverley.gov.uk

Report Status: Open

Waverley Borough Council Monitoring Officer Protocol

1. Executive Summary

1.1 Section 5(1) Local Government and Housing Act 1989 requires every Council to designate an Officer as the Council's Monitoring Officer. The Monitoring Officer is designated by Council and may or may not be an employee of the Council.

1.2 As part of the current work programme to update the constitutions of both Guildford Borough Council (GBC) and Waverley Borough Council (WBC), the Joint Executive Head of Legal and Democratic Services has deemed the Monitoring Officer Protocol as a high priority, to ensure that both Councils have the proper procedures in place to allow the Monitoring Officer to effectively discharge their statutory obligations.

- 1.3 The law does not prescribe exactly how the Monitoring Officer is to carry out their functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.
- 1.4 A report on attached proposed Monitoring Officer Protocol was taken to the Guildford and Waverley Joint Constitutions Review Group on 18 December 2024. Members of the Group discussed the proposal and welcomed the additional protocol. Members of the group noted that it was sensible and added additional structure to the council's governance arrangements.
- 1.5 This report asks the Standards and General Purposes Committee to consider the proposed Monitoring Officer Protocol, as attached in **Appendix 1** with a recommendation that the committee recommends the Monitoring Officer Protocol to full Council for adoption into the constitution.
- 1.6 A similar report will be taken to the Guildford Borough Council Corporate Governance & Standards Committee on 18 January 2024, where it will be proposed that the attached proposed Monitoring Officer Protocol be recommended to the Guildford Borough full Council for adoption.

2. Recommendations

That the Standards and General Purposes Committee resolves to:

- 2.1 Approve the proposed Monitoring Officer Protocol;

2.2 Recommend the Monitoring Officer Protocol to full Council for adoption into the constitution.

3. Reason(s) for Recommendation:

3.1 To protect the interests of the Council, and to provide guidance on how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

4. Exemption from publication

4.1 No part of this report is exempt from publication.

5. Purpose of Report

5.1 This report asks the Standards and General Purposes Committee:

- (a) To note the report and provide comments and feedback on the proposed Monitoring Officer Protocol (**Appendix 1**) as outlined in the recommendations in section 2 of this report.

6. Strategic Priorities

6.1 The recommended Monitoring Officer Protocol will support the Council's strategic plan and commitment to open, democratic and participative governance.

7. Background

7.1 The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations, but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality.

7.2 The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions. Section 5(1) Local Government and Housing Act 1989 and the Localism Act 2011 requires the Council to designate an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Council;
- Report cases where the Ombudsman has found maladministration on the part of the Council;
- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

7.3 It is recognised that an effective Monitoring Officer positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

8. Equality and Diversity Implications

8.1 The Standards and General Purposes Committee will be responsible for having due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning governance arrangements.

9. Financial Implications

9.1 There are no financial implications arising from this report. Any proposals, projects, or suggestions from the groups with financial implications will either be contained within approved budgets or considered as part of the Service and Financial Planning cycle.

10. Legal Implications

10.1 The legal position in relation to the legislation and related Code

- Section 5(2)(a) Local Government and Housing Act 1989.
- Section 5(2)(b) Local Government and Housing Act 1989.
- Section 81(1) Local Government Act 2000 and section 29 Localism Act 2011.
- Members' Code of Conduct, in accordance with the Localism Act 2011.

11. Human Resource Implications

- 11.1 There are no direct human resource implications arising from this report. Any appointment to the role of Executive Head of Legal & Democratic Services and designation to the role of Monitoring Officer must be made in accordance with the Officer Employment Procedure Rules at Part 4 of the Constitution.

12. Background Papers

None

13. Appendices

Appendix 1: Proposed Monitoring Officer Protocol

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PART 5: MONITORING OFFICER PROTOCOL

WAVERLEY BOROUGH COUNCIL / GUILDFORD BOROUGH COUNCIL

MONITORING OFFICER PROTOCOL

1.0 THE MONITORING OFFICER

The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Code of Conduct for Members. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations, but also has specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of actual or likely illegality.

The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

2.0 INTRODUCTION

The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound governance of the Council.

Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility to:

- Report on actual, and anticipated, illegality within the Council; and
- Report cases where the Ombudsman has found maladministration on the part of the Council;

The Localism Act 2011 places a statutory responsibility on the Monitoring Officer to:

- Maintain the Register of Members' Interests; and
- Administer, assess and investigate complaints to Members' misconduct.

The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

3.0 DESIGNATION

The Monitoring Officer is designated by Council and may or may not be an employee of the Council. Where the Monitoring Officer is an employee of the Council and leaves that employment, they automatically cease to be the Monitoring Officer for the Council. The Council may appoint an Officer as Monitoring Officer on an interim basis pending a permanent appointment.

The Council's structure provides for the Executive Head of Legal & Democratic Services to be the Monitoring Officer. Any appointment to the role of Executive Head of Legal & Democratic Services and designation to the role of Monitoring Officer must be made in accordance with the Officer Employment Procedure Rules at **Part 4** of the Constitution.

4.0 PERSONAL RESPONSIBILITY

The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- The Monitoring Officer, rather than the Council, will nominate at least one Officer as Deputy Monitoring Officer, with the power to act as Monitoring Officer where the Monitoring Officer is unable to act as a result of absence or illness; and
- In respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external and independent individual to conduct a particular investigation.
- Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any Officer to assist them in the discharge of any non-statutory functions.

5.0 FUNCTIONS

The functions of the Monitoring Officer are as follows:

5.1 Statutory Functions

- To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees, or any Member or Officer, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) Local Government and Housing Act 1989.
- To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any of its Committees, Sub-Committee, or any Member or Officer, has given rise to maladministration or injustice, in accordance with section 5(2)(b) Local Government and Housing Act 1989.
- To maintain the Register of Member's Interests in accordance with section 81(1) Local Government Act 2000 and section 29 Localism Act 2011, including dealing with sensitive interests under section 32 Localism Act 2011.
- To administer, assess and investigate complaints of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

5.2 Non-Statutory Functions

- To ensure that the Council has effective governance arrangements in place.
- To provide an effective, robust and ongoing programme of elected member training and development.
- To contribute to the corporate management of strategic risks.
- To encourage effective scrutiny of the Council.
- To monitor and uphold the Constitution.
- To act as principal Legal Advisor to the Council.
- To provide advice to Members on conduct and ethics matters generally.
- To consult regularly with the Chief Executive / Head of Paid Service, the Chief Financial Officer and Auditors to identify areas where the probity of the Council can be improved or better protected and to take appropriate action.
- To investigate any applications for dispensation from a Member and to report and recommend to the Council and / or [Standards & General Purposes Committee](#) / [Corporate Governance & Standards Committee](#) as appropriate.
- To report to the Council on resources which they consider they require for the discharge of their functions.

6.0 ADVICE AND DECISIONS

The Monitoring Officer's responsibilities fall into 3 distinct categories:

6.1 Advice

A Member may seek advice from the Monitoring Officer, for example concerning their interests. The Monitoring Officer will provide their advice but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice.

6.2 Decisions

Where the proposal, act or omission would cause the Council to act unlawfully, the Monitoring Officer may be required to decide whether there is any illegality that they are required to report to Council which would have the effect of suspending implementation of the action or decision until their report has been considered.

6.3 Advice and Decision

In some case, for example a Member conduct matter, the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer.

7.0 SEEKING THE ADVICE OF THE MONITORING OFFICER

The Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Officers and Members should therefore routinely consult the Monitoring Officer in respect of new policy proposals and action programmes.

Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission. Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative means of achieving the objective or rectifying any deficiency. The Monitoring Officer may only make a report on illegality in respect of a proposal public where the relevant Officer or Member progresses the matter despite having been advised not to by the Monitoring Officer. Before reporting to Council on any illegality or maladministration, the Monitoring Officer will consult with the Chief Executive / Head of Paid Service and Chief Financial Officer.

The Monitoring Officer is responsible for advising Members on conduct and ethics matters and any Member can seek the confidential advice of the Monitoring Officer about their own position. Subject to any conflict of interest with the Council, the Monitoring Officer will advise whether in their view the conduct would amount to a breach of the Code and will not disclose that advice unless required to do so by law or as part of an investigation into an alleged breach of the code.

Members are encouraged to seek the advice of the Monitoring Officer concerning the conduct of another Member, prior to making a formal complaint, and they should do so in writing. The Monitoring Officer may make contact with the Member complained of, before responding.

8.0 INVESTIGATION

The Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of code of conduct.

Where the Monitoring Officer is considering a complaint of a breach of the code of conduct, they will follow the Council's procedures and arrangements set out for the assessment, investigation and determination of such complaints.

Where the Monitoring Officer considers a complaint of illegality or maladministration and determines that the proposal, act or omission does, or would, give rise to maladministration or illegality, they shall seek to agree an alternative and lawful course of action and/or make a statutory report.

Upon receiving any complaint of illegality, maladministration or breach of the code of conduct, the Monitoring Officer will, where appropriate, seek to resolve the matter amicably and informally, but there may be circumstances where the matter is not appropriate for local resolution, is incapable of so being resolved, or if of such seriousness that a statutory report is an appropriate response.

Where the Monitoring Officer has received a complaint of conflict relating to another investigation or advice provided, or believes that one may be perceived, or receives a complaint regarding an investigation relating to a complaint against a Member (i.e. concerning the investigation/ or the investigator) then the Monitoring Officer may refer the matter to the Council's Deputy Monitoring Officer and her deputy will consider this and confirm their decision/ response on the complaint

9.0 REPORTING

Where the Monitoring Officer is of the opinion that illegality or maladministration has occurred or will occur, they will, after consulting with the Chief Executive / Head of Paid Service and Chief Financial Officer, report to Council. Alternatively, to negate the need for a separate statutory report, they are also able to add their written advice to the report on the matter by any other Council officer, and/or to provide oral advice at any meeting of the Council.

10.0 ADVICE TO INDIVIDUAL MEMBERS

Wherever possible the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a political group of the Council. The Monitoring Officer is designated as statutory officer to the Council, rather than to the Executive or any individual Member or group of Members. Where the Monitoring Officer considers that providing advice to a Member is incompatible with their role as advisor to the Council, they may decline to provide such advice but can, at their discretion, secure such advice from an independent source at the Council's expense.

11.0 MONITORING AND INTERPRETING THE CONSTITUTION

The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.

In order to conduct such monitoring and review, the Monitoring Officer may:

- Consult any Member or Officer, other organisations and stakeholders.
- Observe meetings of Members and/or Officers at any level.
- Undertake an audit trail of a sample of decisions.
- Record and analyse issues raised with them by Members, Officers, the public or stakeholders.
- Compare practices in this Council with those in other comparable authorities, or national examples of best practice.
- Consider any relevant reports and recommendations of the Auditors and other regulatory agencies.

The Monitoring Officer will maintain an up-to-date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of law, decisions made by Council and any other minor and consequential amendments.

The Monitoring Officer is responsible for advising on the interpretation of the Constitution and this protocol. The Monitoring Officer may, at their discretion, take the advice of their Deputy or external legal advice from time to time on questions of interpretation and construction. Nevertheless, their opinion on such matters will be final.

12.0 RESOURCES

The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.

For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:

- The right of access to all documents and information held by or on behalf of the Council.
- The right of access to any meetings of Members or Officers of the Council, other than political group meetings and to have advance notice, (including receiving agendas, minutes, reports and related papers) in relation to all such meetings.
- The right to require any Officer or Member of the Council to provide an explanation of any matter under investigation.
- A right to report to the Council and to the Executive, including the right to present a written report and to attend and advise verbally.
- The right of access to the Chief Executive / Head of Paid Service and the Chief Financial Officer and to be one of the Officers which constitutes the Corporate Management Board and will have advance notice of its meetings, agenda and reports and the right to attend and speak.
- The right, following consultation with the Chief Executive / Head of Paid Service and the Chief Financial Officer, to notify the Police, the Council's Auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.
- The right to obtain legal advice at the Council's expense from an independent external source.

Waverley Borough Councils

Report to: Standards and General Purposes Committee

Date: 8 January 2024

Ward(s) affected: All

Report of Director: Transformation and Governance

Senior Officer: Susan Sale, Joint Executive Head of Legal & Democratic Services

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Report Status: Open

Waverley Borough Council Council Procedure Rules: Extraordinary Meetings of the Council (Rule 4)

1. Executive Summary

- 1.1 There is a statutory obligation upon every Local Authority to have a constitution and to both maintain and publish it. It is considered good practice to keep the constitution under constant review and for councillors to consider a more formal review on an annual basis.
- 1.2 As part of the current work programme to update the constitutions of both Guildford Borough Council (GBC) and Waverley Borough Council (WBC), the Joint Executive Head of Legal and Democratic

Services has prioritised the Council Procedure Rules as a high priority, requiring urgent attention.

- 1.3 The GBC Council Procedure Rules can be found in Part 4 (Council Procedure Rules) of its constitution. WBC Council Procedure Rules can be found in Part 4.1 (Council and Committee Procedure Rules). After reviewing both sets of Council Procedure Rules, it was apparent that there would be no benefit in amending both sets of the current rules, therefore Officers are recommending the introduction of a set of new Council Procedure Rules for both councils, using examples of good practice, based on the statutory framework.
- 1.4 The work to review the Council Procedure Rules for both GBC and WBC is extensive, and as such, it has been decided to divide and deliver the task into three manageable parts for review by the Guildford and Waverley Joint Constitutions Review Group (G&W JCRG). Part 1 (sections 1-10) of the new proposed Council Procedure Rules was taken to the G&W JCRG on 18 December, where sections 1-10 were approved.
- 1.5 Officers intend to present the entire new set of CPR (approx. 30-40 rules) to the Standards and General Purposes Committee at its next meeting, with a recommendation to that they are taken to full Council for adoption.
- 1.6 This report presents CPR no. 4: Extraordinary meetings of Council as this particular rule is especially problematic for WBC. A table outlining the main differences of the proposed changes to rule no. 4 can be found in **Table 1** of this report.

Table 1: Main Differences

	Rule	Waverley	Guildford	Proposed	Comments
4	Extraordinary meetings of Council	Council business is confined to a single item	To consider the business for which the extraordinary meeting has been called.	The only items of business which will be considered at extraordinary meetings of the Council will be the	Align the rules and allows WBC greater flexibility.

				items for which the meeting has been called.	
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- 1.7 The key change proposed is to align the procedure around calling extraordinary council meetings, allowing more than one single item to be considered; the current restrictive procedure causes operational difficulties at WBC.
- 1.8 This report asks the Standards and General Purposes Committee to consider the proposals in this report and provide feedback on the suggested CPR no. 4: Extraordinary meetings of Council for WBC as set out in **Appendix 1** of this report.

2. Recommendations

That the Standards and General Purposes Committee to:

- 2.1 Note the report and the proposed new Council Procedure Rules No. 4: Extraordinary Meetings of Council for Waverley Borough Council as set out in **Appendix 1** of this report.
- 2.2 Recommend the proposed new Council Procedure Rules No. 4 Extraordinary Meetings of Council for Waverley Borough Council as set out in **Appendix 1** to full Councils for adoption into their constitutions with immediate effect.

3. Reason(s) for Recommendation:

- 3.1 To ensure that WBC have adequate arrangements in place to deal with the conducting of council meetings and dealing with council business in an effective and efficient manner that meets statutory guidance and is lawful.

4. Exemption from publication

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

5. Purpose of Report

- 5.1 This report asks the Standards and General Purposes Committee;
- (a) To discuss and consider the proposed new Council Procedure Rules No. 4: Extraordinary Meetings of Council for Waverley Borough Council.
 - (b) To make recommendations to full Council, in respect of the formal adoption of the proposed new Council Procedure Rules No. 4: Extraordinary Meetings of Council.

6. Strategic Priorities

- 6.1 This work assists in the delivery of the Council's Corporate Plan priorities for good governance and transparency, it also promotes smart and efficient working practices.

7. Background

Council Procedure Rules

- 7.1 Council Procedure Rules are contained in the constitution of each council and describes the types of meetings of the Council and the procedure rules that apply to each type of Council meeting.
- 7.2 The Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989, and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders and should be interpreted accordingly.

8. Equality and Diversity Implications

8.1 The JCRG will be responsible for having due regard to the requirements of the Public Sector Equality Duty (Equality Act 2010) when making any recommendations concerning constitutional arrangements.

9. Financial Implications

9.1 There are no financial implications arising from this report.

10. Legal Implications

10.1 The proposed amendments are in line with the Standing Orders, as provided for by the following legislations:

- Local Government Act 1972,
- Local Government and Housing Act 1989 and;
- Local Government Act 2000

11. Human Resource Implications

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

12. Summary of Options

12.1 The Standards and General Purposes Committee is invited to consider the proposed new Council Procedure Rules No. 4: Extraordinary Meetings of Council attached as **Appendix 1**.

12.2 In terms of options available, the Standards and General Purposes may:

- (a) accept the proposed new Council Procedure Rules No. 4: Extraordinary Meetings of Council and agree and commend it for adoption by full Council;
- (b) amend the proposed new Rule; or
- (c) ask officers to reconsider any part(s) of the new Rule that raise concerns.

13. Background Papers

Waverley Borough Council Constitution
Guildford Borough Council Constitution

14. Appendices

Appendix 1: The proposed new Council Procedure Rules No. 4:
Extraordinary Meetings of Council

RULE 4: EXTRAORDINARY MEETINGS OF COUNCIL

4.1 Calling an Extraordinary Meeting

Those listed below may require the Proper Officer to summons Members to Council meetings in addition to Ordinary meetings:

- the Council by resolution;
- the Mayor;
- the Head of Paid Service;
- the Monitoring Officer;
- the Chief Financial Officer; or

Any 5 members of the Council, if they have signed a requisition presented to the Mayor who has refused or failed to call a meeting within 7 calendar days of presentation of the requisition. Any such requisition will be deemed to have been presented to the Mayor if emailed to the Monitoring Officer at committees@waverley.gov.uk / committeeservices@guildford.gov.uk.

4.2 Business

Extraordinary Meetings will:

- i) Elect a Councillor, who is not a member of the Executive, to preside if both the Mayor and Deputy Mayor are not present;
- ii) Receive any apologies for absence;
- iii) Receive any declarations of interests;
- iv) In accordance with Council Procedure **Rule 11** receive any questions from the registered electors;
- v) The only items of business which will be considered at extraordinary meetings of the Council will be the items for which the meeting has been called;
- vi) Consider any business that the Mayor deems to be urgent, having taken advice from the Monitoring Officer or their representative, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact to the Council.

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