

GUILDFORD AND WAVERLEY JOINT CONSTITUTIONS REVIEW GROUP

Thursday, 30 November 2023 - 6.00 pm

Council Chamber, Council Offices, The Burys, Godalming

A G E N D A

Circulation:

Members:

Cllr Andy MacLeod (Joint Chair)

Cllr James Jones, Guildford Borough Council (Joint Chair)

Cllr Paul Follows

Cllr Michael Goodridge

Cllr Gemma Long

Cllr Joss Bigmore, Guildford Borough Council

Catherine Houston, Guildford Borough Council

Cllr Sallie Barker, Guildford Borough Council

Officers:

1 **Apologies for absence**

2 **Disclosure of Interests**

3 **REVISED TERMS OF REFERENCE FOR THE JOINT GOVERNANCE
COMMITTEE** (Pages 3 - 18)

For the group to note the report and consider the recommendations: The TOR for the Joint Governance Committee were reviewed to ensure they remained, relevant, fit for purpose and included any collaboration arrangement updates.

4 **NEW OFFICER EMPLOYMENT PROCEDURE RULES** (Pages 19 - 54)

New Officer Employment Procedure Rules and consequential constitutions revisions.

For the group to note the report and consider the recommendations and consequential constitution revisions as outline below: Officers are recommending that the Officer Employment Procedure Rules are revised using examples of good practice.

Revised terms of reference of the Joint Appointments Committee (to be called the Joint Senior Staff Committee).

In conjunction with the New Officer Employment Procedure Rules: For the group to consider the revised TOR for the JAC and the change of name for the committees extended remit.

To authorise the Head of Paid Service to approve where necessary any

human resource policies specific to Guildford

In conjunction with the New Officer Employment Procedure Rules: For the group to consider the revision to the HOPS responsibilities under the scheme of delegation relating to human resources policies for GBC.

Revised delegation to the Monitoring Officer to convene an Independent Panel.

In conjunction with the New Officer Employment Procedure Rules: For the group to consider the revised delegation for the Monitoring Officer to convene an independent panel.

Proposed dissolution of the GBC Employment Committee

In conjunction with the New Officer Employment Procedure Rules: For the group to consider the dissolution of the GBC Employment Committee.

5 WAVERLEY BOROUGH KEY DECISION THRESHOLD REVIEW (Pages 55 - 66)

For the group to note the report and consider the recommendations: To enable the Council to embrace more agile and timely decision making.

6 DRAFT WORK PROGRAMME (Pages 67 - 70)

A draft programme of the upcoming constitutional work the group intends to review.

7 Date of next meeting

Guildford & Waverley Borough Councils

Report to: Guildford Borough Council and Waverley Borough Council Joint Constitutions Review Group

Date: 30 November 2023

Ward(s) affected: All

Report of Director: Transformation and Governance

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

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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 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 in **Appendix 1** of this report.

1.2 At the request of the Joint Executive Head of Legal & Democratic Services, the TOR for the Joint Governance Committee 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 Joint Governance Committee on 1 November 2023, where members of the committee reviewed, noted, and supported the proposed amendments. The 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 This report asks that the Joint Constitutions Review Group (JCRG) to consider the amendments to the TOR and to recommend the amendments to WBC Standards & GP Committee and GBC Corporate Governance & Standards Committee, with a recommendation that each committee recommends the amended TOR to their full Council for adoption.

2. Recommendations

That the Joint Constitutions Review Group resolves to:

- 2.1 approve the proposed amended terms of reference for the Joint Governance Committee;
- 2.2 recommend the amended Joint Governance Committee terms of reference to the Waverley Borough Council Standards & General Purposes Committee and the Guildford Borough Council Corporate Governance & Standards Committee, with a recommendation that

each of those Committees recommends the amended terms of reference to their full Council for adoption.

3. Reason(s) for Recommendation:

- 3.1 To ensure both councils continue 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 Joint Constitutions Review Group:

- (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 work of Councillor task or working groups assist in the delivery of the Councils' Corporate Plan priorities.

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 Joint Constitutions Review Group 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

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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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

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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:**

- (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. The chairman or person presiding shall have the casting vote.

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Guildford & Waverley Borough Councils

Report to: Guildford and Waverley Joint Constitutions Review Group

Date: 30 November 2023

Ward(s) affected: All

Report of Director: Transformation and Governance

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

Tel: 01483 444022

Email: susan.sale@guildford.gov.uk

Report Status: Open

Guildford Borough Council & Waverley Borough Council: Officer Employment Procedure Rules

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 deemed the Officer Employment Procedure Rules as a high priority, requiring urgent attention, particularly at WBC where none currently exist.

- 1.3 The GBC Officer Employment Procedure Rules can be found in Part 4 (Procedure Rules) of its constitution. WBC currently does not have any Officer Employment Procedure Rules published in its constitution. Officers are recommending the introduction of new Officer Employment Procedure Rules, using examples of good practice, based on the statutory framework.
- 1.4 This report asks the G&W Joint Constitutions Review Group (JCRG) to consider the proposals in this report and provide feedback on the suggested new Officer Employment Procedure Rules. The report also asks the JCRG to submit the proposed new Procedure Rules to WBC Standards & General Purposes Committee and GBC Corporate Governance & Standards Committee, with a recommendation that each committee recommends their adoption by their respective full Council.
- 1.5 All members of the Joint Management Team (JMT) are employed by WBC and the Officer Employment Procedure Rules based on the Council's current staff structures, apply only to members of the JMT. It is proposed that the new Officer Employment Procedure Rules will be included in the constitution of both councils. The existing Officer Employment Procedure Rules in GBC's Constitution would be superseded by the new rules.
- 1.6 GBC currently has an Employment Committee, whose terms of reference include matters relating to the employment (including appointment, disciplinary action and dismissal) of the Council's most senior officers. The procedures for dealing with those matters are set out in the existing Officer Employment Procedure Rules.
- 1.7 The Employment Committee's terms of reference do not take into account the collaboration between the two councils, the establishment of the JMT and of the Joint Appointments Committee. They are therefore out of date, of no practical use and are superfluous and in contradiction to the terms of reference of the Joint Appointments Committee. The terms of reference of the Guildford & Waverley Joint Appointments Committee includes the

process for the appointment of the Joint Chief Executive, Joint Section 151 Officer, Joint Monitoring Officer, and Joint Strategic Director posts.

- 1.8 Approval of the new Officer Employment Procedure Rules will therefore, as a consequence, require the formal abolition by GBC of its Employment Committee which no longer has a role, other than as set out in paragraph 1.9 below.
- 1.9 The GBC Employment Committee's terms of reference also include "*approval of the Council's human resources policies*", which are not within the remit of the Joint Appointments Committee. It is therefore proposed that this function be delegated to the Head of Paid Service, and that the GBC Officer Scheme of Delegations be amended to reflect this.
- 1.10 The Joint Appointments Committee was formed in August 2021 to deal with the appointments of joint senior members of staff. The TOR for this committee lies in the constitution for both councils, Part 3 page 19 of the GBC constitution and Part 3 appendix 2 of the WBC constitution. To support the improvements to the Officer Employment Procedure Rules, and incorporate statutory requirements, it has become evident that the Joint Appointment Committee's remit needs to be expanded to also deal with disciplinary action against, and the dismissal of, joint senior members of staff.
- 1.11 It is proposed that the Joint Appointments Committee's TOR be amended to deal with appointments, disciplinaries and dismissals of relevant officers, to reflect legislation. As such, the Committee will require a change of name to better reflect its new purpose, and it is proposed that it be known as the 'Joint Senior Staff Committee' (JSSC), rather than the 'Joint Appointments Committee' (JAC).

2. Recommendations

That the Joint Constitution Review Group resolve to:

- 2.1 Note the report and the proposed new Officer Employment Procedure Rules as set out in **Appendix 1** of this report.
- 2.2 Recommend the new Officer Employment Procedure Rules as set out in **Appendix 1** to this report to the Waverley Borough Council Standards & General Purposes Committee and the Guildford Borough Council Corporate Governance & Standards Committee, for their consideration and recommendation to their respective full Councils for adoption into their constitutions.
- 2.3 Recommend to the Guildford Borough Council's Corporate Governance & Standards Committee that they recommend to Guildford's full Council;
 - (i) the formal disbandment and abolition of the GBC Employment Committee; and
 - (ii) an amendment to the GBC Officer Scheme of Delegations to delegate authority to the Head of Paid Service to approve where necessary any human resource policies that apply to Guildford Borough Council.
- 2.5 Recommend to the Waverley Borough Council Standards & General Purposes Committee and the GBC Corporate Governance & Standards Committee, the revised terms of reference for the Joint Appointment Committee and name change to reflect its expanded responsibilities to the new Joint Senior Staff Committee, as set out in **Appendix 4**, to this report and that they recommend them to their respective Councils for formal adoption.
- 2.6 Recommend to the Waverley Borough Council Standards & General Purposes Committee and the Guildford Borough Council Corporate Governance & Standards Committee, that the Officer Scheme of Delegations be amended to provide authority for the Monitoring Officer to convene an Independent Panel, as provided for in the Officer Procedure Rules, where necessary, and recommend such an amendment to their respective full Councils.

3. Reason(s) for Recommendation:

- 3.1 To ensure that both GBC and WBC have adequate arrangements in place to deal with the employment of all officers including senior management and statutory officers. Approval of the new Officer Employment Procedure Rules will be the first step in the process to align the constitutions of GBC and WBC where appropriate 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 JCRG;
- (a) To discuss and consider the proposed new Officer Employment Procedure Rules, and
 - (b) To make recommendations to the WBC Standards & General Purposes Committee and GBC Corporate Governance & Standards Committee, in respect of the formal adoption of the new Officer Employment Procedure Rules by both Councils.

6. Strategic Priorities

- 6.1 The work of Councillor task or working groups assist in the delivery of both Councils' Corporate Plan priorities and both GBC and WBC Collaborative working agenda.

7. Background

The Officer Employment Procedure Rules

- 7.1 The statutory officers of both councils, the Head of Paid Service (Chief Executive), the Section 151 Officer (Executive Head of Finance) and the Monitoring Officer (Executive Head of Legal and Democratic Services), have duties to advise and protect the councils as corporate bodies. In

carrying out their duties at times they may be required to provide advice to members that is not welcome or popular, or to take such action in connection with that advice in order to fulfil their statutory responsibilities.

- 7.2 Accordingly, these three statutory posts are protected by law under specific regulations from unwarranted political interference in carrying out their proper duties. In the event that disciplinary action is contemplated against a statutory officer, members will need to ensure that they understand the procedure to be used complies with the regulatory requirements and the relevant terms and conditions of employment.
- 7.3 The Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 amended the previous legislation to change the statutory process for dismissing the Head of Paid Service, Monitoring Officer and Chief Finance Officer (“the relevant officers”). Previously no disciplinary action could be taken against a relevant officer other than in accordance with a recommendation in a report made by a Designated Independent Person (DIP). The 2015 Regulations abolished the role of the DIP and outlined a new process to be followed and to be incorporated into Council constitutions.
- 7.4 The Model Disciplinary Procedure and Guidance which incorporate the relevant statutory requirements was nationally negotiated and agreed by the Joint Negotiating Committee (JNC) for Local Authority Chief Executives issued in October 2016. It was then incorporated into the contractual terms and conditions of employment for Local Authority Chief Executives.
- 7.5 Additionally, the August 2017 Chief Officers’ JNC contains a modified procedure for Monitoring Officers and Section 151 Officer, indicating that the relevant provisions of the Chief Executives’ Handbook can be used as a reference guide in such circumstances. This Model Procedure for Chief Executives has been adopted across England and it is now recommended that it should govern any future disciplinary procedures for the relevant Statutory Officers employed here.

Guildford and Waverley Borough Council Collaboration

- 7.6 Following the commitment by both Guildford and Waverley to collaborate and the establishment of a JMT, with the prospect of further collaborative proposals coming forward, the benefits of approving new Officer Employment Procedure Rules and related governance processes within the respective Constitutions, where appropriate to do so, are becoming increasingly apparent.
- 7.7 The current published version of WBC constitution lists the Officer Employment Procedure Rules in Part 4 (4.8), however there is a note advising that the section is under review. The previous version was removed in October 2022. This was initially due to the timing of the recruitment process of the JMT and was left under review with an update imminent.
- 7.8 The GBC Officer Employment Procedure rules can be found in Part 4, pages 77 -94 of its constitution, it is a total of 17 pages. As part of the constitutions review process, we have compared both sections to guidance, best practice, and those of several other collaborating borough/district councils. In comparison the average length of the Officer Employment Procedure Rules is 6 pages, they also tend to be less descriptive and more succinct.
- 7.9 It was decided by both councils in April 2022 that all Statutory officers (The Head of Paid Service, Monitoring Officer and Chief Finance Officer) and the entire JMT would be employed directly by WBC. It is proposed that the new Officer Employment Procedure Rules will be included in the constitution of both councils. The existing Officer Employment Procedure Rules in GBC's Constitution would be superseded by the new rules.
- 7.10 The group is invited to consider the draft Officer Employment Procedure Rules set out in **Appendix 1** to this report. If approved by both Councils, the new Rules will be included in Waverley's

Constitution and will supersede the existing Officer Employment Procedure Rules in Guildford's Constitution.

7.11 It will also be necessary for Guildford to formally disband its existing Employment Committee.

7.12 The terms of reference for the current Joint Appointments Committee are set out in appendix 2 to this report, the proposed changes are found as a tracked change version at appendix 3 and a clean copy of proposed changes can be found at appendix 4 to this report.

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. 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 Local Authorities (Standing Orders) (England) Regulations 2001, as amended, govern the appointment and disciplinary arrangements within a Local Authority relevant to senior officers.

10.2 Section 112 Local Government Act 1972 provides a Local authority with the power to appoint such officers as they think necessary for the proper discharge by the authority of their functions.

11. Human Resource Implications

11.1 The Human Resources implications for certain senior Officers of the Council are set out in the body of the report.

12. Summary of Options

12.1 The JCRG is invited to consider the proposed new Officer Employment Procedure Rules attached as **Appendix 1**.

12.2 In terms of options available, the JCRG may:

- (a) accept the proposed new Officer Employment Procedure Rules and agree to submit them to each council's relevant committee and commend them for adoption by each authority's full Council;
- (b) amend any of the proposed new Rules; or
- (c) ask officers to reconsider any part(s) of the new Rules that raise concerns.

13. Background Papers

Waverley Borough Council Constitution

Guildford Borough Council Constitution

Minutes from the GBC Full Council meetings held on 5 April 2022

Minutes from the GBC Full Council meetings held on 26 April 2022

14. Appendices

Appendix 1: Draft Officer Employment Procedure Rules

Appendix 2: TOR for the Joint Appointments Committee

Appendix 3: Draft TOR for the Joint Senior Staff Committee (tracked change version)

Appendix 4: Draft TOR for the Joint Senior Staff Committee (clean version)

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OFFICER EMPLOYMENT PROCEDURE RULES

1.0 INTRODUCTION

1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or Officer, as the case may be;
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract;
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authorities or, where a Joint Committee, Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authorities, that Joint Committee, Committee, Sub-Committee or other Officer, as the case may be;
- 1.1.5 The 'Joint Management Team' means the group of Officers consisting of the Joint Chief Executive, the Joint Strategic Directors and the Joint Executive Heads of Service.
- 1.1.6 'Head of Paid Service' means the Officer designated under *Section 4(1) of the Local Government and Housing Act 1989* – the Council's Joint Chief Executive has been designated the Head of Paid Service;
- 1.1.7 'Chief Finance Officer' means the Officer having responsibility, for the purposes of *Section 151 of the Local Government Act 1972*, for the administration of the Council's financial affairs – the Council's Joint Executive Head of Finance has been designated the Chief Finance Officer;
- 1.1.8 'Monitoring Officer' means the Officer designated under *Section 5(1) of the Local Government and Housing Act 1989* – the Council's Joint Executive Head of Legal and Democratic Services has been designated the Monitoring Officer;
- 1.1.9 'Statutory Chief Officer' means, in accordance with *section 2(6) Local Government and Housing Act 1989*, the officer responsible for the purposes of *s151 of the Local Government Act 1972* for the administration of the authority's financial affairs - the Council's Chief Finance Officer is a Statutory Chief Officer.
- 1.1.10 'Non-statutory Chief Officer' means, in accordance with *section 2(7) Local Government and Housing Act 1989* a person for whom the Head of Paid Service is

directly responsible, a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the Head of Paid Service, or a person who as respects all or most of the duties of their post is required to report directly or is directly accountable to the local authority themselves, (except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services) – the Council's Joint Strategic Directors are designated Non-statutory Chief Officers;

1.1.11 'Deputy Chief Officer' means, in accordance with section 2(8) Local Government and Housing Act 1989 a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers – the Council's Joint Executive Heads of Service, other than the Joint Executive Head of Finance are designated Deputy Chief Officers;

1.1.12 'Joint Senior Staff Committee' means a Committee set up in accordance with s102 Local Government Act 1972 between Guildford Borough Council and Waverley Borough Council. The Terms of reference of the Joint Senior Staff Committee can be found in Part 3 of the Council's constitution.

1.2 Scope of these Procedure Rules

These procedure rules govern the specific arrangements for the recruitment, appointment and disciplinary action (including dismissal) of the Joint Head of Paid Service, the Joint Chief Finance Officer, the Joint Monitoring Officer the Joint Strategic Directors and the Joint Executive Heads of Service.

The function of recruitment, appointment, disciplinary action and dismissal in respect of all other staff must be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by them (in accordance with *paragraph 2 Part II schedule 1 of the 2001 Regulations*).

Such functions will be carried out in accordance with the Council's Human Resource policies, as adopted from time to time.

1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Joint Chief Executive
Statutory Chief Officer	Joint Executive Head of Finance
Monitoring Officer	Joint Executive Head of Legal and Democratic Services
Non-Statutory Chief Officers	Joint Strategic Directors
Deputy Chief Officers	Joint Executive Heads of Service, other than the Joint Executive Head of Finance.

2.0 RECRUITMENT

2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer or promotion, to such a post, shall disclose to the Head of Paid Service, whether they are related to, or cohabit with, any Councillor or other Officer or any other person who may have an influence on the decision to appoint.

Any candidate who fails to disclose such a relationship may be disqualified for appointment and any offer of appointment being rescinded and, if appointed, may be liable to dismissal without notice.

Every Councillor and Senior Officer (being an Officer comprising part of the Joint Management Team) of the Council shall disclose to the Head of Paid Service any relationship known to exist between them and any person whom they know to be a candidate for an appointment to the Council.

The Head of Paid Service will report to the Monitoring Officer on any such required disclosures made to them.

2.2 Support for Appointment

The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or Senior Officer (being an Officer comprising part of the Joint Management Team) for any appointment with the Council.

No Councillor nor Senior Officer (comprising part of the Joint Management Team) shall seek support for any person for any appointment with the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Council.

2.3 Confidentiality

The Council, the Executive, a Joint Committee, a Committee, a Sub-Committee or a Panel should, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the Local Government Act 1972 where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual member of staff or individual post are to be discussed.

2.4 Process and Procedure

2.4.1 Where the Council proposes to appoint an Officer within the Joint Management Team, being either the Head of Paid Service, the Statutory Chief Officer, the Monitoring Officer, a Non-Statutory Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate will:

- (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.
- (d) Where a post has been advertised as provided in (b) above, the Council will:
 - (i) interview all qualified applicants for the post; or
 - (ii) select a short list of such qualified applicants and interview those included on the short list; or
 - (iii) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph (b) above.

3.0 APPOINTMENT

3.1 Appointment of Joint Chief Executive and designation of Head of Paid Service

The Joint Senior Staff Committee will be responsible for the recruitment process and selection of the Head of Paid Service and for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the appointment of their preferred candidate.

Each Council will be responsible for appointing the Joint Chief Executive and the designation of the Head of Paid Service to the role, and must do so before an offer of such an appointment is made.

The Councils may only make such an appointment following the consultation requirements set out at paragraph 3.5 below.

3.2 Appointment of Joint Strategic Directors

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Strategic Directors and for appointing their preferred candidates.

The Joint Senior Staff Committee may only make such appointments following the consultation requirements set out at paragraph 3.5 below.

3.3 Designation of the Joint Monitoring Officer and Joint Chief Financial Officer

The Joint Senior Staff Committee will also be responsible for the recruitment and selection process of the Joint Monitoring Officer and Joint Chief Financial Officer. The Joint Senior Staff Committee are responsible for making a recommendation to the Council of both Waverley Borough Council and Guildford Borough Council for the designation of the role to their preferred candidate.

Each Council will be responsible for designating an Officer as the Joint Monitoring Officer and as the Joint Chief Finance Officer, and must do so before an offer of any such designation is made.

An offer of employment as Joint Monitoring Officer or Joint Chief Finance Officer may only be made following the consultation requirements set out at paragraph 3.5 below.

3.4 Appointment of Joint Executive Heads of Service

The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

An offer of employment as a Joint Executive Head of Service may only be made following the consultation requirements set out in paragraph 3.5 below.

3.5 Consultation Requirements for Appointments

In respect of the appointment of the Joint Head of Paid Service, the Joint Monitoring Officer, the Joint Chief Financial Officer, the Joint Strategic Directors and the Joint Executive Heads of Service, the offer of appointment cannot be made until this section has been complied with.

An offer of appointment to any of those Officers, as above, must not be made by the Appointor until:

- (a) The Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate;
- (b) The Proper Officer has notified every Executive Member of each Council of:
- (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
 - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:
- (i) the Leader of either Council has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the making of the offer; or
 - (ii) the Proper Officer has notified the Appointor that no objection was received by them within that period from the Leader of either Council; or
 - (iii) the Appointor is satisfied that any objection received from the Leader of either Council within that period is not material or is not well-founded.

3.6 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Statutory Chief Officer (S151)	Joint Senior Staff Committee	Requires consultation with each of the Executives and resolution of each full Councils
Monitoring Officer	Joint Senior Staff Committee	Requires consultation with each of the Executives and approval of each full Councils
Non-Statutory Chief Officers	Joint Senior Staff Committee	Requires consultation with each of the Executives
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with each of the Executives

4.0 DISCIPLINARY ACTION

4.1 Disciplinary Action in respect of the Joint Head of Paid Service, Joint Chief Financial Officer and Joint Monitoring Officer

4.1.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Head of Paid Service, Joint Chief Finance Officer, and Joint Monitoring Officer. The Joint Senior Staff Committee will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.

4.1.2 In carrying out the investigation the Investigating Officer may:

- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
 - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.1.3 Pending the report of the Investigator the Joint Head of Paid Service, the Joint Monitoring Officer or the Joint Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.1.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, other than dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, other than dismissal.
- 4.1.5 The Council's Joint Head of Paid Service, Joint Monitoring Officer and Joint Chief Finance Officer cannot be dismissed without a resolution to that effect by each Council, as the full Council of each authority is responsible for the function of dismissal of such an Officer.
- 4.1.6 Should the Joint Senior Staff Committee consider that the relevant disciplinary action to be taken, having considered the Investigator's Report, is dismissal of the Officer, an Independent Panel must be appointed by the authority, or an Officer to whom the task is delegated. Such an Independent Panel will be formed in accordance with the 2015 Regulations, and shall be a committee appointed by the authority under section 102(4) Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of such officers.
- 4.1.7 The authority, or an Officer to whom the task is delegated, will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation.
- 4.1.8 The role of the Independent Panel is to prepare a report for each Council setting out their advice, views and recommendations as to the proposed dismissal.
- 4.1.9 Where dismissal is being considered, a meeting of each full Council must be convened within 20 working days of the Independent Panel being appointed, to consider and determine the matter.
- 4.1.10 A Joint Head of Paid Service, Joint Chief Finance Officer or Joint Monitoring Officer attending a Council meeting where proposed dismissal against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion, or a legal representative.
- 4.1.11 Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:
- (a) Any advice, views or recommendations of the Independent Panel;
 - (b) The conclusions of any investigation into the alleged misconduct;
 - (c) Any representations from the relevant Officer or their representative.

4.2 Disciplinary Action in respect of Joint Strategic Directors

- 4.2.1 The Joint Senior Staff Committee shall consider any alleged misconduct in respect of the Joint Strategic Directors and will appoint an external, suitably qualified, experienced and competent, investigator to act as the Investigating Officer to conduct an investigation into the alleged misconduct and report back to the Committee with their Investigator's Report.
- 4.2.2 In carrying out the investigation the Investigating Officer may:
- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
 - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.2.3 Pending the report of the Investigator the Joint Strategic Director may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of three calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.2.4 Following receipt of the report of the Investigating Officer, the Joint Senior Staff Committee will determine any disciplinary action, including dismissal, to be taken, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time. The Joint Senior Staff Committee has the authority to impose any disciplinary action, and shall be responsible for the function of dismissal where appropriate.

4.3 Disciplinary Action in respect of Joint Executive Heads of Service

- 4.3.1 The Joint Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Deputy Chief Officers, as necessary, in accordance with any Human Resources Policies which have been adopted by the Council from time to time.
- 4.3.2 The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.
- 4.3.3 Pending the outcome of such investigation the Deputy Chief Officer may be suspended by the Joint Head of Paid Service or their nominated representative. Such suspension will be for no longer than 3 calendar months, or for such period as may be necessary to investigate and report on the allegations, and will be on full pay, other than in exceptional circumstances.
- 4.3.4 Subject to paragraph 4.4 below, the Joint Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal, where appropriate, of Deputy Chief Officers. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct and must be wholly independent from that individual.

4.4 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Services, Chief Finance Officer and Monitoring Officer	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal	Decision to dismiss must be taken by Council, following consideration of the views of the Independent Panel and consultation with the Executives of each Council.	None
Non-Statutory Chief Officers	Investigating Officer appointed by the Joint Senior Staff Committee who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action including dismissal.	Decision to dismiss is the responsibility of the Joint Senior Staff Committee but may only be taken following consultation with the Executives of each Council.	None
Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken following consultation with the Executives of each Councils.	Joint Head of Paid Services or their representative provided such individual played no part in the investigation.

4.5 Consultation Requirements for Dismissals

4.5.1 This provision applies to the dismissal of The Head of Paid Service, the Chief Financial Officer, the Monitoring Officer, Non-Statutory Chief Officers, and Deputy Chief Officers.

4.5.2 Notice of dismissal of any of those Officers must not be given by the Dismissor until:

- (a) the Dismissor has notified the Proper Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Proper Officer has notified every Executive Member of both Councils of:
 - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
 - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Executive Leader of either Council on behalf of their respective Executive to the Proper Officer; and
- (c) either:

- (i) the Executive Leader of either Authority has, within the period specified in the notice under subparagraph (b)(iii), notified the Proper Officer that neither they nor any other Member of their Executive has any objection to the dismissal;
- (ii) the Proper Officer has notified the Dismissor that no objection was received by them within that period from either Executive Leader; or
- (iii) the Dismissor is satisfied that any objection received from an Executive Leader within that period is not material or is not well-founded.

4.6 Appeals

- 4.6.1 The Joint Head of Paid Service, Joint Chief Finance Officer, Joint Monitoring Officer and Joint Strategic Directors shall have no right of appeal against disciplinary action.
- 4.6.2 Deputy Chief Officers who feel that the outcome of any Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Joint Head of Paid Service or their nominated representative.

The Joint Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for carrying out the investigation into the alleged misconduct, nor the same individual responsible for deciding upon the disciplinary action, and must be wholly independent from those individuals.

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**GUILDFORD BOROUGH COUNCIL AND WAVERLEY BOROUGH COUNCIL
JOINT APPOINTMENTS COMMITTEE
COMPOSITION AND TERMS OF REFERENCE**

This Joint Committee is to be established in accordance with Section 102 (1) (b) of the Local Government Act 1972 (Appointment of committees)

MEMBERS: 6

The Joint Appointments Committee shall comprise the respective Leaders of both councils plus two members appointed by Guildford Borough Council and two members appointed by Waverley Borough Council (one of whom will be the Leader of Waverley's Principal Opposition Group)

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990

QUORUM: 3 (subject to each council being represented at a meeting by at least 1 member)

PLACE OF MEETINGS: The venue for meetings of the Joint Appointments Committee shall normally alternate between the two councils with the host Leader chairing the meeting. The venue for the first meeting shall be at Waverley Borough Council offices

CHAIRMAN: The Joint Appointments Committee shall be chaired alternately between the councils by their respective Leaders

GENERAL ROLE: Adopting and exercising such of the functions of Guildford Borough Council and Waverley Borough Council ("the councils") as can be delegated by those councils in respect of the appointment of the councils' Joint Chief Executive/Head of Paid Service and any Joint Statutory Officer and Director posts as are covered by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) or any successor regulations

FREQUENCY OF MEETINGS: As and when required

SUBSTITUTES: Substitutes may be appointed. Guildford Borough Council may appoint two substitute members. Waverley Borough Council may appoint two

substitute members, with one being nominated by the Leader of the council, and one nominated by the Leader of Waverley's Principal Opposition Group.

ROLE AND FUNCTION:

Appointment of Joint Chief Executive/Head of Paid Service

- (i) Subject to (ii) below, to undertake and determine on behalf of the councils all aspects of the process for the recruitment and selection of the Joint Chief Executive/Head of Paid Service, including final approval of the terms and conditions of employment (based on current provisions) for that post
- (ii) The final decision as to the appointment of the joint Chief Executive/Head of Paid Service shall be reserved to full meetings of both councils, and subject to no material or well-founded objection to the making of an offer of appointment being received by either Leader on behalf of their respective executives
- (iii) To determine pension discretions relating to the Joint Chief Executive/ Head of Paid Service
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of the Joint Chief Executive/Head of Paid Service, and to make recommendations as appropriate for formal approval by each council
- (v) To confirm into post, or otherwise, the successful candidate following any probationary or trial period
- (vi) To be responsible for ad-hoc employment matters affecting the Joint Chief Executive/Head of Paid Service post, including consideration and determination of any 'cost of living' pay award

Appointment of any Joint Statutory Officer¹ posts

- (i) Subject to (ii) below, to undertake and determine on behalf of the councils all aspects of the process for the appointment of any Joint Statutory Officer posts
- (ii) The final decision as to the appointment of any Joint Statutory Officer posts shall be reserved to full meetings of both councils and, where the provisions of Part II

¹ Section 151/Chief Finance Officer and Monitoring Officer

of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) apply to any such appointment, subject to no material or well-founded objection to the making of an offer of appointment being received by either Leader on behalf of their respective executives

- (iii) To determine pension discretions relating to any Joint Statutory Officer posts
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of any Joint Statutory Officer posts, and where necessary to make recommendations as appropriate for formal approval by each council
- (v) To be responsible for ad-hoc employment matters affecting any Joint Statutory Officer posts

Appointment of any Joint Directors

- (i) Subject to (ii) below, to undertake and determine on behalf of the councils all aspects of the process for the appointment of any Joint Directors
- (ii) The appointment of any Joint Directors shall be subject to no material or well-founded objection to the making of an offer of appointment being received by either Leader on behalf of their respective executives
- (iii) To determine pension discretions relating to any Joint Directors
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection and appointment of any Joint Directors, and where necessary to make recommendations as appropriate for formal approval by each council
- (vii) To be responsible for ad-hoc employment matters affecting any Joint Director posts

SERVICING THE JOINT APPOINTMENTS COMMITTEE: The Joint Appointments Committee shall be serviced by committee staff from the council hosting the relevant meeting.

MEETINGS OF THE JOINT APPOINTMENTS COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

1. A meeting of the Joint Appointments Committee shall be summoned by the relevant officer of the Council hosting the meeting who shall give a minimum of five clear working days' notice (or less in the case of urgency)
2. Meetings of the Joint Appointments 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)
3. The Joint Appointments 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
4. The order of business at meetings of the Joint Appointments Committee shall include the following:
 - (a) Apologies for Absence
 - (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
5. Any matter will be decided by a simple majority of those members of the Joint Appointments 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

**GUILDFORD BOROUGH COUNCIL AND WAVERLEY BOROUGH COUNCIL
 JOINT ~~APPOINTMENTS SENIOR STAFF~~ COMMITTEE
 COMPOSITION AND TERMS OF REFERENCE**

This Joint Senior Staff Committee is to be established in accordance with Section 102 (1) (b) of the Local Government Act 1972 (Appointment of committees).

1.0 MEMBERS:-6

The Joint ~~Appointments Senior Staff~~ Committee shall comprise 6 members, being the respective Leaders of ~~each~~both ~~C~~ecouncils plus two members appointed by Guildford Borough Council (one of whom shall be the Leader of the principal Opposition Group) and two members appointed by Waverley Borough Council (one of whom ~~shall be~~ will be the Leader of ~~the principal~~Waverley's Principal Opposition Group). ~~The Committee shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989.~~

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2.0 APPOINTMENT

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

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3.0 QUORUM:

The quorum for a meeting of the Joint Senior Staff Committee shall be 3 members (subject to each ~~C~~ecouncil being represented at any meeting by at least 1 member)

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4.0 PLACE TIME & LOCATION OF MEETINGS:

The venue and commencement time for meetings of the Joint ~~Appointments Senior Staff~~ Committee shall be determined by the Joint Monitoring Officer in consultation with the Leader of each Council, and shall normally alternate between the Civic Office of each two ~~C~~ecouncils, ~~with the host Leader chairing the meeting. The venue for the first meeting shall be at Waverley Borough Council offices~~

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5.0 CHAIRMAN

~~The Joint Appointments Senior Staff~~ Committee shall be chaired by the Leader of the Council at whose civic office the meeting is held, alternately between the councils by their respective Leaders. In their absence the meeting will be chaired by the Leader of the Council not hosting the meeting. In the absence of both Leaders, the chair will be elected by the meeting on the basis of a majority vote.

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6.0 VOTING

Decisions of the Joint Senior Staff Committee shall be made by a majority vote of those members present and voting. A vote will be taken either by way of a show of hands or by electronic means. The Chairman shall have no second or casting vote. In circumstances where a majority decision cannot be made by the Joint Senior Staff Committee, the delegation of powers and function to the Committee, relating to that decision, will immediately cease. Any such decision will be referred to each Council for determination.

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7.0 GENERAL ROLE:

Adopting and exercising such of the functions of Guildford Borough Council and Waverley Borough Council ("the Councils") as can be delegated by those Councils in respect of the appointment and disciplinary action relating to the Councils' Joint Chief Executive, Joint Chief Officers and Joint Deputy Chief Officers of the Councils' Joint Chief Executive/Head of Paid Service and any Joint Statutory Officer and Director posts as provided for by are covered by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) or any successor regulations.

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8.0 FREQUENCY OF MEETINGS

Meetings will be arranged by the Joint Monitoring Officer in consultation with the Leader of each Council, on such occasions as is necessary to determine any business within its terms of reference.:- As and when required

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9.0 SUBSTITUTE MEMBERS:

In the event of an appointed Councillor being unable to attend any meeting of the Joint Senior Staff Committee, the relevant Political Group Leader may appoint a Substitute Member, from the same Council, provided that prior written notice of such substitution is given to the Monitoring Officer by 5pm the working day prior to the meeting. Substitutes may be appointed. Guildford Borough Council may appoint two substitute members. Waverley Borough Council may appoint two substitute members, with one being nominated by the Leader of the council, and one nominated by the Leader of Waverley's Principal Opposition Group.

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10.0 DELEGATION

The Joint Senior Staff Committee may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.

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11.0 WORKING GROUPS

The Joint Senior Staff 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.

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12.0 SUB-COMMITTEES

The Joint Senior Staff Committee may establish sub-committees consisting solely of the Members of one Council, to consider matters relating to that Council.

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13.0 OFFICER EMPLOYMENT PROCEDURE RULES

The Joint Senior Staff Committee shall operate in compliance with the Officer Employment Procedure Rules adopted by each Council into their Constitution.

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14.0 FUNCTIONS AND RESPONSIBILITIESROLE AND FUNCTION:

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Appointment of 11.1 Joint Chief Executive/Head of Paid Service

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the recruitment and selection of the Joint Chief Executive/Head of Paid Service, including final approval of the terms and conditions of employment (based on current provisions) for that post.
- (ii) The final decision as to the appointment of the joint Chief Executive/Head of Paid Service shall be reserved to ~~full meetings of both each Councils~~, and subject to no material or well-founded objection to the making of an offer of appointment being received by ~~either the~~ Leader ~~of either Council~~ on behalf of their respective Executives.
- (iii) To determine pension discretions relating to the Joint Chief Executive/ Head of Paid Service.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of the Joint Chief Executive/Head of Paid Service, and to make recommendations as appropriate for formal approval by each Council.
- (v) To confirm into post, or otherwise, the successful candidate following any probationary or trial period.

APPENDIX 3

(vi) To be responsible for ad-hoc employment matters affecting the Joint Chief Executive/Head of Paid Service post, including consideration and determination of any 'cost of living' pay award.

(vii) To be responsible, subject to viii) below for any disciplinary action regarding the Joint Chief Executive / Head of Paid Service.

(vii)(viii) The final decision to dismiss the Joint Chief Executive / Head of Paid Service shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

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Appointment of any-11.2 Joint Statutory Officer¹ posts

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process of recruitment and selection for the appointment of any Joint Statutory Officer post_s
- (ii) The final decision as to the appointment of any Joint Statutory Officer posts shall be reserved to full meetings of both each Councils and, where the provisions of Part II of Schedule 2 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) apply to any such appointment, subject to no material or well-founded objection to the making of an offer of appointment being received by either the Leader of either Council on behalf of their respective Executives
- (iii) To determine pension discretions relating to any Joint Statutory Officer posts.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of any Joint Statutory Officer posts, and where necessary to make recommendations as appropriate for formal approval by each Council.
- (v) To be responsible for ad-hoc employment matters affecting any Joint Statutory Officer posts.

¹ Section 151/Chief Finance Officer and Monitoring Officer

(vi) To be responsible, subject to vii) below, for any disciplinary action regarding any Joint Statutory Officer.

(vii) The final decision to dismiss any Joint Statutory Officer shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

Appointment of any 11.3 Joint Strategic Directors

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the appointment of any Joint Strategic Director_s
- (ii) The appointment of any Joint Strategic Directors shall be subject to no material or well-founded objection to the making of an offer of appointment being received by either the Leader of either Council on behalf of their respective Executives.
- (iii) To determine pension discretions relating to any Joint Strategic Director_s
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection and appointment of any Joint Strategic Directors, and where necessary to make recommendations as appropriate for formal approval by each Council.

v) To be responsible for ad-hoc employment matters affecting any Joint Strategic Director post_s

To be responsible, subject to vii) below, for any disciplinary action regarding any Joint Strategic Director.

(vii) The dismissal of any Joint Strategic Director shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

15.0 SERVICING THE JOINT SENIOR STAFF APPOINTMENTS COMMITTEE:

The Joint Senior Staff Appointments Committee shall be serviced by staff as agreed between the Democratic Services Managers of each Council. ~~committee staff from the council hosting the relevant meeting.~~

The Joint Senior Staff Committee will be supported by professional advisors including legal advisors or human resources advisors as appropriate. The views of such advisors must be taken into account.

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**16.0 MEETINGS OF THE JOINT ~~APPOINTMENTS SENIOR STAFF~~ COMMITTEE
SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:**

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1. A meeting of the Joint ~~Appointments Senior Staff~~ Committee shall be summoned by the ~~Joint Monitoring Officer~~ relevant officer of the Council hosting the meeting who shall give a minimum of five clear working days' notice (or less in the case of urgency).
2. Meetings of the Joint ~~Appointments Senior Staff~~ 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) ~~and the Committee resolve to exclude the public.~~

~~3- The Joint Appointments 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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~~4-3.~~ The order of business at meetings of the Joint ~~Appointments Senior Staff~~ Committee shall include the following:

- (a) Apologies for Absence ~~and Substitute Members;~~
- (b) ~~Disclosures-Declarations~~ of Interests;
- (c) ~~Agreement and a~~ 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.

~~5-4.~~ Any matter will be decided by a simple majority of those members of the Joint ~~Appointments 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~~

**GUILDFORD BOROUGH COUNCIL AND WAVERLEY BOROUGH COUNCIL
JOINT SENIOR STAFF COMMITTEE
TERMS OF REFERENCE**

The Joint Senior Staff Committee is to be established in accordance with Section 102 (1) (b) of the Local Government Act 1972 (Appointment of committees).

1.0 MEMBERSHIP

The Joint Senior Staff Committee shall comprise 6 Councillors, being the respective Leader of each Council plus two Councillors appointed by Guildford Borough Council (one of whom shall be the Leader of the principal Opposition Group) and two Councillors appointed by Waverley Borough Council (one of whom shall be the Leader of the principal Opposition Group). The Committee shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989.

2.0 APPOINTMENT

Appointments shall be made in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

3.0 QUORUM

The quorum for a meeting of the Joint Senior Staff Committee shall be 3 members (subject to each Council being represented at any meeting by at least 1 member).

4.0 TIME & LOCATION OF MEETINGS

The venue and commencement time for meetings of the Joint Senior Staff Committee shall be determined by the Joint Monitoring Officer in consultation with the Leader of each Council, and shall normally alternate between the Civic Office of each Council.

5.0 CHAIRMAN

The Joint Senior Staff Committee shall be chaired by the Leader of the Council at whose civic office the meeting is held. In their absence the meeting will be chaired by the Leader of the Council not hosting the meeting. In the absence of both Leaders, the chair will be elected by the meeting on the basis of a majority vote.

6.0 VOTING

Decisions of the Joint Senior Staff Committee shall be made by a majority vote of those members present and voting. A vote will be taken either by way of a show of hands or by electronic means. The Chairman shall have no second or casting vote. In circumstances

where a majority decision cannot be made by the Joint Senior Staff Committee, the delegation of powers and function to the Committee, relating to that decision, will immediately cease. Any such decision will be referred to each Council for determination.

7.0 ROLE

Adopting and exercising such of the functions of Guildford Borough Council and Waverley Borough Council (“the Councils”) as can be delegated by those Councils in respect of the appointment and disciplinary action relating to the Councils’ Joint Chief Executive, Joint Chief Officers and Joint Deputy Chief Officers as provided for by the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) or any successor regulations.

8.0 FREQUENCY OF MEETINGS

Meetings will be arranged by the Joint Monitoring Officer in consultation with the Leader of each Council, on such occasions as is necessary to determine any business within its terms of reference.

9.0 SUBSTITUTE MEMBERS

In the event of an appointed Councillor being unable to attend any meeting of the Joint Senior Staff Committee, the relevant Political Group Leader may appoint a Substitute Member, from the same Council, provided that prior written notice of such substitution is given to the Monitoring Officer by 5pm the working day prior to the meeting.

10.0 DELEGATION

The Joint Senior Staff Committee may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.

11.0 WORKING GROUPS

The Joint Senior Staff 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.

12.0 SUB-COMMITTEES

The Joint Senior Staff Committee may establish sub-committees consisting solely of the Members of one Council, to consider matters relating only to that Council.

13.0 OFFICER EMPLOYMENT PROCEDURE RULES

The Joint Senior Staff Committee shall operate in compliance with the Officer Employment Procedure Rules adopted by each Council into their Constitution.

14.0 FUNCTIONS AND RESPONSIBILITIES

14.1 Joint Chief Executive/Head of Paid Service

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the recruitment and selection of the Joint Chief Executive/Head of Paid Service, including final approval of the terms and conditions of employment (based on current provisions) for that post.
- (ii) The final decision as to the appointment of the joint Chief Executive/Head of Paid Service shall be reserved to each Council, and subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives.
- (iii) To determine pension discretions relating to the Joint Chief Executive/ Head of Paid Service.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of the Joint Chief Executive/Head of Paid Service, and to make recommendations as appropriate for formal approval by each Council.
- (v) To confirm into post, or otherwise, the successful candidate following any probationary or trial period.
- (vi) To be responsible for ad-hoc employment matters affecting the Joint Chief Executive/Head of Paid Service post, including consideration and determination of any 'cost of living' pay award.
- (vii) To be responsible, subject to (viii) below for any disciplinary action regarding the Joint Chief Executive / Head of Paid Service.
- (viii) The final decision to dismiss the Joint Chief Executive / Head of Paid Service shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

14.2 Joint Statutory Officer¹ posts

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process of recruitment and selection of any Joint Statutory Officer post.
- (ii) The final decision as to the appointment of any Joint Statutory Officer posts shall be reserved to each Councils and, subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives
- (iii) To determine pension discretions relating to any Joint Statutory Officer posts.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection of any Joint Statutory Officer posts, and where necessary to make recommendations as appropriate for formal approval by each Council.
- (v) To be responsible for ad-hoc employment matters affecting any Joint Statutory Officer posts.
- (vi) To be responsible, subject to (vii) below, for any disciplinary action regarding any Joint Statutory Officer.
- (vii) The final decision to dismiss any Joint Statutory Officer shall be reserved to each Council and shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

14.3 Joint Strategic Directors

- (i) Subject to (ii) below, to undertake and determine on behalf of the Councils all aspects of the process for the appointment of any Joint Strategic Director.
- (ii) The appointment of any Joint Strategic Director shall be subject to no material or well-founded objection to the making of an offer of appointment being received by the Leader of either Council on behalf of their respective Executives.

¹ Section 151/Chief Finance Officer and Monitoring Officer

- (iii) To determine pension discretions relating to any Joint Strategic Director.
- (iv) To consider any financial settlement of an affected employee who is unsuccessful in respect of the selection and appointment of any Joint Strategic Director, and where necessary to make recommendations as appropriate for formal approval by each Council.
- v) To be responsible for ad-hoc employment matters affecting any Joint Strategic Director post.
- vi) To be responsible, subject to vii) below, for any disciplinary action regarding any Joint Strategic Director.
- vii) The dismissal of any Joint Strategic Director shall be subject to no material or well-founded objection to the proposed dismissal being received by the Leader of either Council on behalf of their respective Executives.

15.0 SERVICING THE JOINT SENIOR STAFF COMMITTEE

The Joint Senior Staff Committee shall be serviced by staff as agreed between the Democratic Services Managers of each Council.

The Joint Senior Staff Committee will be supported by professional advisors including legal advisors or human resources advisors as appropriate. The views of such advisors must be taken into account.

16.0 MEETINGS OF THE JOINT SENIOR STAFF COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH THE FOLLOWING PROCEDURE:

1. A meeting of the Joint Senior Staff Committee shall be summoned by the Joint Monitoring Officer who shall give a minimum of five clear working days' notice (or less in the case of urgency).
2. Meetings of the Joint Senior Staff 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) and the Committee resolve to exclude the public.

3. The order of business at meetings of the Joint Senior Staff Committee shall include the following:

- (a) Apologies for Absence and Substitute Members;
- (b) Declarations of Interests;
- (c) Agreement and 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.

Guildford Borough Council & Waverley Borough Council

Report to: Guildford and Waverley Joint Constitutions Review Group

Date: 30 November 2023

Ward(s) affected: All

Report of Director: Transformation and Governance

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

Tel: 01483 444022

Email: susan.sale@guildford.gov.uk

Report Status: Open

Review of the Guildford and Waverley 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 Joint Constitutions Review Group (JCRG) 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 JCRG's support and its agreement to recommend the changes to the WBC's Standards and General Purposes Committee (S&GP), with a recommendation that the S&GP Committee recommends the amended Article 12 to full Council for formal adoption into the Council's constitution.

2. Recommendations to JCRG

That the Joint Constitution Review Group 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 Waverley Borough Council's Standards & General Purposes Committee 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 their Council.
- 2.3 Recommend to Waverley Borough Council's Standards & General Purposes Committee that they consider the proposed amended Article 12, as set out in **Appendix 1** of this report, and recommend

that their Council formally adopt it into the Waverley Borough Council constitution.

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 JCRG;
 - (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 Standards & General Purposes Committee.

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 both 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 The Joint Constitution Review Group 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 JCRG 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

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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G&W Joint Constitutions Review Group 2023/24- work programme

Upcoming items

Ref	Title	Purpose of item	Lead Member/Officer	Date for consideration	Governance route & Dates
1	Revised terms of reference for the Joint Governance Committee	For the group to note the report and consider the recommendations: The TOR for the Joint Governance Committee were reviewed to ensure they remained, relevant, fit for purpose and included any collaboration arrangement updates.	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	30 Nov 23	S&GP: 8 Jan 24 CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
2	New Officer Employment Procedure Rules and consequential revisions as per items 3, 4, 5 and 6	For the group to note the report and consider the recommendations: Officers are recommending that the Officer Employment Procedure Rules are revised using examples of good practice.	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	30 Nov 23	S&GP: 8 Jan 24 CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
3	Revised terms of reference of the Joint Appointments Committee (to be called the Joint Senior Staff Committee)	In conjunction with item 2 the New Officer Employment Procedure Rules: For the group to consider the revised TOR for the JAC and the change of name for the committees extended remit.	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	30 Nov 23	S&GP: 8 Jan 24 CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
4	To authorise the Head of Paid Service to approve where necessary any	In conjunction with item 2 the New Officer Employment Procedure Rules: For the	Councillor Merel Rehorst-	30 Nov 23	CGSC: 18 Jan 24

	human resource policies specific to Guildford	group to consider the revision to the HOPS responsibilities under the scheme of delegation relating to human resources polices for GBC.	Smith/Susan Sale		Full Council: ?? Jan 24 TBC
5	Revised delegation to the Monitoring Officer to convene an Independent Panel	In conjunction with item 2 the New Officer Employment Procedure Rules: For the group to consider the revised delegation for the Monitoring Officer to convene an independent panel.	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	30 Nov 23	S&GP: 8 Jan 24 CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
6	Proposed dissolution of the GBC Employment Committee	In conjunction with item 2 the New Officer Employment Procedure Rules: For the group to consider the dissolution of the GBC Employment Committee.	Councillor Merel Rehorst-Smith/Susan Sale	30 Nov 23	CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
7	WBC Key Decision Threshold Review	For the group to note the report and consider the recommendations: To enable the Council to embrace more agile and timely decision making.	Councillor Victoria Kiehl/Susan Sale	30 Nov 23	S&GP: 8 Jan 24 Full Council: ?? Jan 24 TBC
8	Revised Council Procedure Rules	To rectify inconsistencies and consequently enable more effective and efficient discharge of business.	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	18 Dec 23	S&GP: 8 Jan 24 CGSC: 18 Jan 24 Full Council: ?? Jan 24 TBC
9	Officer Scheme of Delegation and Sub Schemes	To ensure that Officers have the correct powers to make decision and carry out the responsibilities of their roles	Councillor Victoria Kiehl/Councillor Merel Rehorst-Smith/Susan Sale	TBC	TBC

10	Individual Executive Member Delegations/Decisions & Executive Procedure Rules	To provide a mechanism for individual Executive Members to make decisions in accordance with regulations.	Councillor Victoria Kiehl/Susan Sale	TBC	TBC
11	Officer Decision Making Procedure Rules	TBC	Councillor Victoria Kiehl/ Councillor Merel Rehorst-Smith/ Susan Sale	TBC	TBC
12	Contract/Procurement procedure Rules	TBC	Councillor Victoria Kiehl/ Councillor Merel Rehorst-Smith/ Susan Sale	TBC	TBC
13	Financial Procedure Rules	TBC	Councillor Victoria Kiehl/ Councillor Merel Rehorst-Smith/ Susan Sale	TBC	TBC
14	Audit and Risk TOR: Surveillance (3.1.10), Whistle blowing, Fraud & Money laundering	TBC	Councillor Victoria Kiehl/ Susan Sale	TBC	TBC
15	Review of code of conduct & arrangements for complaints	TBC	Councillor Victoria Kiehl/ Councillor Merel Rehorst-Smith/ Susan Sale	TBC	TBC
16	Review of the Overview and Scrutiny function	TBC	Councillor Victoria Kiehl/ Councillor Merel Rehorst-Smith/ Susan Sale	TBC	TBC
17	Review of the Articles	TBC	Councillor Victoria Kiehl/	TBC	TBC

			Councillor Merel Rehorst-Smith/ Susan Sale		
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