

WAVERLEY BOROUGH COUNCIL

COUNCIL –

3 AUGUST 2021

TITLE: LOCAL GOVERNMENT COLLABORATION UPDATE

Portfolio Holder: Councillor Paul Follows, Leader of the Council

Head of Service: The recommendations in this report could affect all services and all members of the Senior Management Team. As the recommendations in this report specifically affect the Chief Executive, it therefore comes under the authority of the two Strategic Directors and the Head of Policy and Governance (Monitoring Officer).

Key decision: Yes

Access: Part Exempt

Note pursuant to Section 100B(5) of the Local Government Act 1972:

Annexe 1, 2 and 3 to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraphs 3 and 4 of Part I of Schedule 12A to the Local Government Act 1972, namely:

“Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.”

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1. Purpose and summary

- 1.1 At its meeting held on 6 July 2021, the Council considered an initial options appraisal by the Local Government Association, together with advice from South East Employers, and agreed to progress the next steps for collaboration with Guildford Borough Council: In particular, the Council agreed to progress towards the establishment of a Single Management Team (Option E) comprising a chief executive, directors, and heads of service, as the most appropriate means for bringing forward business cases for future collaboration. The two councils will share a management structure, which will be responsible for recommending any further collaboration, service-by-service. The resolution of the Council is set out below:

1. *Full Council pursues the option of creating a single management team, comprised of statutory officers (Head of Paid Service; Chief Finance Officer; Monitoring Officer), directors and heads of service as the most appropriate means for bringing forward business cases for future collaboration;*
 2. *Full Council asks the Council's HR Manager to take the necessary action, in consultation with Guildford Borough Council and with the support and advice from South East Employers and as set out within the addendum to annexe 3 of this report, to make arrangements for a recruitment and selection of a single joint Chief Executive (acting as Head of Paid Service for both Waverley and Guildford Borough Councils), including making arrangements for a senior officer recruitment panel (to include the Leader of the Principal Opposition Group and the Council Leader), so that a report may be brought to a future meeting of Full Council recommending the appointment of a suitable candidate; and*
 3. *A report be submitted to a session of full council on the following matters a) heads of terms for the proposed Inter Authority Agreement to establish governance arrangements for joint working and identify how costs, liabilities and savings will be shared b) the proposed Job Description and Terms and Conditions in respect of the appointment of a joint Chief Executive and c) the establishment of a joint appointments committee including its composition.*
- 1.2 This report provides an update on the collaboration and sets out the information that Council requested be submitted for further agreement by proposing a job description and terms and conditions for a joint chief executive and the terms of reference for a joint appointments committee. The report also sets out an early draft of the heads of terms for an inter-authority agreement but notes that there are a number of areas where further detail is required before heads of terms can be agreed.

2. Recommendation

It is recommended that Council considers this report and the attached annexes and:

- (1) Notes the early draft of the outline Heads of Terms of the Inter Authority Agreement contained in Annexe 1 (Exempt) to this report, and that significant further work is necessary to clarify the detail required to agree the Heads of Terms, and that a further report will be submitted to the Council to agree the final Heads of Terms.
- (2) Approves, subject to consultation, the draft job description in respect of the appointment of a Joint Chief Executive as set out in Annexe 2 (Exempt); and to agree the following as recommended by South East Employers in their paper outlining human resources issues which is attached as Annexe 3 (Exempt):
 - (a) That the title of the new role be Joint Chief Executive (rather than Joint Managing Director).
 - (b) That the employing authority should be the existing employer if an internal candidate is appointed.
 - (c) That the salary for the new Joint Chief Executive post be a spot salary of

£150,000 p.a. including all allowances, duties, and statutory responsibilities with the exception of election duties.

- (d) That the new Joint Chief Executive post is ring-fenced for recruitment from the internal pool of affected employees in the first instance and that if no internal appointment is made then the role shall be advertised externally.
- (e) That, subject to final approval by the Joint Appointments Committee the terms and conditions of employment for an internal appointment will be the existing terms and conditions of the employing authority.

(3) Approves the establishment of a Joint Appointments Committee and its proposed composition and terms of reference, as set out in Annexe 4.

(4) Subject to recommendation (3) above, to confirm the following appointments to the Joint Appointments Committee:

- The Leader of the Council, Councillor Paul Follows
- The Deputy Leader of the Council, Councillor Peter Clark
- The Leader of the Principal Opposition Group, Councillor Stephen Mulliner

(5) To agree that redundancy and any settlement costs incurred as a result of moving to a Joint Chief Executive shall be shared equally between the Councils and that any pension strain costs (if applicable) will remain the responsibility of the employing authority of the affected officer. It is noted that the cost sharing arrangement for the remainder of the collaboration project will form part of the Inter Authority Agreement.

(6) To agree that the costs referred to in recommendation (5) above be funded from General Fund reserves.

3. Reason for the recommendation

3.1 To approve the initial documents and governance required to progress the collaboration with Guildford Borough Council.

4. Background

4.1 Previous reports have described the events of 2020 that led to the eleven district councils in Surrey commissioning a report from KPMG on local government collaboration. The KPMG report presented a strong case for councils to work together more closely in the context of continued funding reductions from central government and the financial consequences of the Covid pandemic. It was notable and unsurprising that KPMG identified that Guildford and Waverley Boroughs could be natural partners, given the geography, infrastructure links and similar sizes. Despite both councils having made efficiencies and cut costs in recent years, both face extremely difficult financial challenges. In this context, the political leaderships of the two councils, supported by senior officers, held initial discussions in an informal working group about how the two councils can collaborate in the future. The expected outcomes of this work are the retention of two separate democratic councils, but with greater sharing of resources and staffing. Council also set out a vision statement which articulated the key drivers for collaboration as more than just

financial and articulated that the Councils had an ambition to “protect, improve, and expand discretionary services, and explore new services”.

- 4.2 The report to Council on 6 July set out two broad approaches and a range of options as to how collaboration between the two councils could proceed. After considering the options for a way forward both Councils decided that ‘Option E’, which was to establish a single shared management team, comprising a chief executive, directors and heads of service, as the most appropriate means for bringing forward business cases for future collaboration. The two councils will share a management structure, who will be responsible for recommending further collaboration, service by service.
- 4.3 Following the agreement to proceed with the collaboration, and in line with the Council resolution, officers have commenced the process of bringing forward an appropriate governance model that will eventually include setting up a formal joint committee (powers to be agreed) and an inter-authority agreement covering how the partnership will be governed, including cost and risk-sharing, dispute resolution and exit clauses will be required. Officers have also started to progress the recruitment of a joint chief executive who will then progress the collaboration.

Inter-Authority Agreement (IAA)

- 4.4 Guildford and Waverley officers have jointly instructed external solicitors to advise on and draft an IAA, including heads of terms, and to provide advice on their content. Initial advice has confirmed the views of internal Legal Services officers that the negotiation and agreement of the IAA will take time, with elements such as the financial agreement between the authorities requiring significant detail in order to agree an IAA. Once the IAA has been fully drafted, we will bring it, together with a detailed business case, to Council for agreement. As a result, a high-level early draft of the Heads of Terms is contained in Annexe 1 (exempt) which will be populated when further information becomes available following the production of the detailed business case.

Job Description

- 4.5 The first stage of the recruitment process is for both Councils to agree the job description and terms and conditions for a joint chief executive, subject to consultation. Officers sought the advice of South East Employers (SEE) in determining an appropriate job description, based on experience of other Councils who have decided to collaborate, and requested that SEE propose a salary and terms and conditions for the post. The proposed job description is contained in Annexe 2 (exempt) and a report from SEE providing human resources advice to both Councils is contained in Appendix 3 (exempt). The report at Annexe 3 makes a number of recommendations to Council including:
- (a) That the title of the new role be Joint Chief Executive (rather than Joint Managing Director)
 - (b) That the employing authority should be the existing employer if an internal candidate is appointed.
 - (c) That the salary for the new Joint Chief Executive post be a spot salary of £150,000 p.a. including all allowances, duties, and statutory responsibilities with the exception of election duties

- (d) That the new Joint Chief Executive post is ring-fenced for recruitment from the internal pool of affected employees in the first instance and that if no internal appointment is made then the role will should be advertised externally
- (e) That, subject to final approval by the Joint Appointments Committee, the terms and conditions of employment for an internal appointment will be the existing terms and conditions of the employing authority.

Joint Appointments Committee

- 4.6 Officers have discussed with the Leaders of the two Councils the proposed terms of reference for the Joint Appointments Committee which will oversee the recruitment and selection process for the joint chief executive, making recommendations to both Councils on the final appointment, and any joint statutory officer and director posts. The terms of reference are contained in Annexe 4 for Council approval.
- 4.7 It is recommended that this Council is represented on the Joint Committee by the Leader of the Council, Councillor Paul Follows, the Deputy Leader, Councillor Peter Clark, and the Leader of the Principal Opposition Group, Councillor Stephen Mulliner, which is in line with current practice in Waverley in respect of senior officer appointments.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1. The Corporate Strategy 2020-25 emphasises “open, democratic and participative governance”, “high quality public services accessible for all”, and “a financially sound Waverley, with infrastructure and resilient service fit for the future”. These principles will continue to guide our approach to this project.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

- 6.1.1 The Chief Finance Officer’s advice to Council on 6 July was that from the point of decision to collaborate and appoint a joint chief executive, costs incurred for the employment of the new post will be split on an equal basis (50/50) between each authority. The CFO also proposed that any redundancy or financial settlement incurred as a result of moving to a joint chief executive be shared equally between the Councils regardless of which post is affected and that any pension strain costs (if applicable) remain the responsibility of the employing authority.
- 6.1.2 It should be noted that the Inter Authority Agreement will deal, amongst other things, with the treatment of costs and liabilities arising from other aspects of the collaboration process.
- 6.1.3 The saving applicable on the appointment of a joint chief executive will be reported to a later meeting once an appointment to the role is proposed.

6.2 Risk management

6.2.1 Annexe 4 to the report to Council on 6 July contained the risks associated with the collaboration. There are no further risks identified at this stage.

6.3 Legal

6.3.1 In relation to shared services and staffing, Section 113 of the Local Government Act 1972 provides that any local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions on such terms as may be provided by the agreement, of the services of officers employed by the former. The starting point for the shared arrangement agreed by Council on 6 July is the creation of an Inter Authority Agreement under Section 113 of the Local Government Act 1972 and establishment of a Joint Appointments Committee under Section 101 of the Local Government Act 1972. In either case an established method of governance, strategic and operational management, decision-making, financial and any other working arrangements would need to be agreed between the two authorities and included in the agreement. These arrangements have been put in place by many local authorities across the country in a variety of partnerships.

6.3.2 The Inter Authority Agreement outline Heads of Terms are attached at Annexe 1 (exempt). A detailed business case is required before the Heads of Terms can be further populated and finalised. Details of who will be the employing authority and how staff are shared as well as budget, savings, and liabilities apportionment are, in particular, required.

6.3.3 The proposal for the joint chief executive is that if an internal candidate is appointed to the role then the current employing Council will remain as the employing authority. If officers do change employer this will be a TUPE scenario and terms and conditions of transferring officers will be protected. Equal pay issues will need to be looked into to ensure officers doing the same work are treated equally. Changes to terms and conditions will require consultation. Further specific legal advice should be taken in relation to potential redundancies and varying of terms and conditions.

6.3.4 The Councils will remain as separate democratic entities with their own constitutions to be followed. Officers working across the Councils will need to be aware of the differences and to ensure that decisions are taken in accordance with the relevant constitution.

6.4 Equality, diversity and inclusion

6.4.1 Equality impact assessments are carried out when necessary across the Council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010. There are no immediate equality, diversity, or inclusion implications in this report's recommendations. Impact assessments may be required as proposals are developed and implemented and will be reported as appropriate.

6.5 Climate emergency declaration

6.5.1 The climate change emergency declaration and the urgent target for net zero carbon by 2030 is a critical objective for both councils. While no specific impacts on the climate emergency declaration have been identified as a consequence of this report's recommendations, the Council will be assessing and prioritising the

environmental, climate and carbon impacts of any proposals that emerge. It may be noted that Waverley Borough Council, like Guildford, has declared a climate emergency and stated an ambition to “work towards making the Council’s activities net-zero carbon by 2030”; potential synergies across the two councils can be explored as part of this project.

7. Consultation and engagement

7.1 No consultation process has taken place on this report. Subject to the approval of the job description for the joint chief executive, a consultation process with the affected employees will begin in August for a period of 30 days.

8. Other options considered

8.1 The alternatives would be to not appoint a joint chief executive and not progress the collaboration option agreed by Council on 6 July or to reconsider the options set out to Council on 6 July.

9. Governance journey

9.1 This matter is for decision by the Council on 3 August. Note that Guildford Borough Council currently intends to discuss this item at its Council meeting on 28 July. If the two Councils do not agree on the detail contained in this report, further informal conversations between the Executives may be required.

Annexes:

Annexe 1 – Early draft of Heads of Terms for the Inter Authority Agreement [Exempt]

Annexe 2 – Draft Job Description for new joint chief executive [Exempt]

Annexe 3 – Human Resources Advice from South East Employers [Exempt]

Annexe 4 – Joint Appointments Committee Terms of Reference

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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Agreed and signed off by:

Legal Services: Borough Solicitor 21 July 2021

Head of Finance: S151 officer 22 July 2021

Strategic Director: S151 officer 22 July 2021

Portfolio Holder: 22 July 2021