

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

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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.