

Review of Governance Arrangements Overview and Scrutiny Task and Finish Group

Report to the Joint Scrutiny Committee

Guildford Borough Council

Dated: 17 September 2015

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Abbreviations used in this paper:

CCfA – Councillor Call for Action

CfPS – Centre for Public Scrutiny

EAB – Executive Advisory Board

O&S – Overview and Scrutiny

OSC – Overview and Scrutiny Committee

Foreword

This is the report of the Review of Governance Arrangements overview and scrutiny task and finish group, developing the work of its successor which began in the last administration. We followed the same structure of a cross-party group of councillors, plus a co-opted independent member of the public, supported by officers. Our initial task was to ensure that new members of the group were fully informed and understood the reasons for the setting up of the task and finish group and the process we had gone through and then to work up the detail of the proposed governance changes for formal consideration by the Council on 7 October 2015.

We have worked with officers to ensure that our proposals are workable, and will provide an improved governance model that reflects the concerns of the stakeholders who responded to the sessions held by the first task and finish group.

Our proposals are for determination by full Council, and I am confident that this task group is proposing the best solution relevant to the Council's needs. The key is the creation of a system allowing wider involvement for all councillors in the decision making process, working with the Executive at the start of that process. This solution will allow for greater transparency and accountability, the key requirements asked for by many stakeholders.

The new structure will also give greater strength to our system of Scrutiny and create a platform for wider involvement by residents in topics of key concern across the borough.

As chairman of the new Task and Finish Group, I would like to thank the Task and Finish Group members, particularly those who were new to the Group (and to the Council), for their constructive contributions, and the officers in Corporate Services who have given us such strong support to create this new structure.

Councillor Caroline Reeves
Chairman, Review of Governance Arrangements Task and Finish Group

1. Introduction

Background

- 1.1 The Task Group membership comprised:

Mrs Maria Angel (co-opted independent person)
Councillor Philip Brooker
Councillor David Goodwin
Councillor Angela Gunning
Councillor Mike Parsons
Councillor David Reeve (replacement for Councillor Susan Parker)
Councillor Caroline Reeves (chairman)
Councillor Pauline Searle
Councillor Jenny Wicks

- 1.2 The following officers supported the group during its investigations:

John Armstrong (Democratic Services Manager)
Steve Benbough (Policy and Partnerships Officer)
James Dearling (Committee Manager)
Chris Guy (Interim Governance Lawyer)
Satish Mistry (Executive Head of Governance)
Carolyn Patterson (PR and Marketing Manager)
Sue Sturgeon (Managing Director)
Ciara Swan (Democratic Services Assistant – Intern)

Reasons for the Review

- 1.3 On 28 July 2015, full Council approved a set of recommendations for improving the Council's governance arrangements. The April 2015 meeting of Council approved the same proposals but was keen not to impose changes to governance arrangements on its successor and so referred the proposals for consideration by Council in July.¹ Prior to the approval of full Council, the proposed governance arrangements change had been supported by both the Joint Scrutiny Committee and the Executive.
- 1.4 The set of recommendations agreed by Council constitute the framework for the governance change:

- (1) That the Council's decision-making culture should continue to promote the following:

Accountability
Transparency
High ethical standards
Involvement and engagement

¹ Minute CO40, Council meeting, Guildford Borough Council, 28 July 2015. Minute CO102, Council meeting, Guildford Borough Council, 14 April 2015.

- (2) That, in order to secure greater involvement of councillors in policy/significant decisions prior to formal consideration by the Executive, the Council should establish two politically balanced executive advisory boards.
- (3) That the terms of reference of the executive advisory boards be aligned to themes in the Corporate Plan and be reviewed at the Council's Selection meeting each year.
- (4) That each executive advisory board be chaired by a lead councillor.
- (5) That meetings of the executive advisory boards be held in advance of each relevant scheduled meeting of the Executive.
- (6) That the existing scrutiny committees be dissolved and replaced by one overview and scrutiny committee, which shall be responsible primarily for post decision review of Executive decisions and wider external scrutiny, including the commissioning of task and finish groups. This committee should focus on the Council's principles, practice, procedures and performance, rather than politics and personalities.
- (7) That the chairman of the Overview and Scrutiny Committee should be a councillor appointed by the Committee who is not from the majority political group or a chairman of any other committee, but if there is no such person able or willing to act, the chairman shall be elected by the members of the Overview and Scrutiny Committee.
- (8) That the importance of the Corporate Governance and Standards Committee to the Council be recognised, particularly in the way in which it supports the overview and scrutiny function through ongoing scrutiny of financial matters, including its proposed expanded remit on the treasury management function and budget monitoring.
- (9) That, in order to improve consultation with/information for ward councillors, officers be asked to ensure that:
 - (a) report authors routinely inform and/or consult with and record the comments of local ward councillors, where appropriate, in reports and amend report templates to include provision for this;
 - (b) provision is made in the procedures for the development of capital bids to routinely inform and/or consult with and record the comments of relevant ward councillors, where appropriate;
 - (c) a review of powers delegated to officers be undertaken to require consultation with, or notification to, local ward councillors in appropriate cases; and
 - (d) new staff induction training includes an element on the role of councillors.
- (10) That officers be asked to investigate (and report back on) ways in which the Council could improve public awareness about:

- (a) the decision-making processes, roles and opportunities for engagement by councillors (that is to say, what councillors do);
 - (b) the involvement of individual councillors by a public record on the website, listing all working groups, review groups, task & finish and other groups that councillors are involved with; and
 - (c) the various internal and external checks and balances within which the Council operates.
- (11) That the officers be asked to explore (and report back on) ways to better engage the public in the Council's decision-making processes, including the possible holding of meetings by the Leader of the Council and the Executive to establish dialogue with stakeholders including, but not limited to, parish councils and residents' associations.
- (12) That recommendation (9) above be implemented in advance of any changes to the Council's governance arrangements.
- (13) That the Council recognises that further work needs to be done to establish how the proposed executive advisory boards would work in practice, including their interaction with each other and with the overview and scrutiny function and accordingly agrees that the task and finish group should be reconvened after the Borough Council elections for the purpose of working up the detailed proposals for formal consideration by the new Council, including the recommendations in paragraphs (10) and (11) above.
- (14) That the Council requests the task and finish group, when it reconvenes, to follow the same approach as the current task and finish group, namely that it focuses on principles, practice and procedures not politics or personalities.²
- 1.5 These proposals for improving the Council's governance arrangements originate from an overview and scrutiny task and finish group review of the Council's governance arrangements. The factors prompting the Council's initial review of its governance arrangements are discussed within the April 2015 report of the Governance Review task and finish group (attached as **Appendix 1**).³ The task and finish group's research concluded that a formal change from the current leader and executive model of decision-making would be ill-judged. Instead, a mixed-model or hybrid approach was put forward, with an altered role for overview and scrutiny (O&S), and the addition of two executive advisory boards (EABs) to advise and make recommendations to the Leader and Executive.
- 1.6 As recommendation 13 (within paragraph 1.4 above) suggests, Council judged that a time-limited, task and finish group approach to reviewing governance was successful and that a similar, successor group should work up the details of the change. In preparation for undertaking this further work, the Joint Scrutiny Committee established a Review of Governance Arrangements task and finish group in May

² Minute CO102, Council meeting, Guildford Borough Council, 14 April 2015.

³ Review of Governance Arrangements, Overview and Scrutiny Task and Finish Group: Report to the Joint Scrutiny Committee, Guildford Borough Council, 7 April 2015, pages 4-5.

2015. Council specified a timeframe that envisaged implementation following early October, as the relevant Council resolution of 28 July 2015 indicates:

- (1) That the set of recommendations for improving the Council's governance arrangements, as endorsed by the 14 April 2015 meeting of Council, be approved.
- (2) That the Governance Review task and finish group develop detailed proposals for the implementation of the governance arrangements change.
- (3) That the Governance Review task and finish group report its findings to a meeting of the Joint Scrutiny Committee.
- (4) That the Governance Review task and finish group be required to undertake its investigation in a timeframe that enables Council to determine its governance arrangements at its 7 October 2015 meeting, with a view to implementation shortly thereafter.⁴

1.7 As called for by recommendations 9 and 12 (within paragraph 1.4 above) a number of improvements to consultation with, and information for, ward councillors have been progressed. Namely:

- The introduction of a new strand to the Corporate Induction Seminar for new staff to cover the role of the councillor.
- The development of a training package for officers, to raise awareness and understanding of best practice in working with councillors.
- A revision of the Scheme of Delegation to officers to ensure those with delegated decision-making powers consult with, or notify, local councillors in respect of decisions that will affect their wards.
- The revision of the Council's reports templates to ensure a section for consultation with ward councillors.
- Investigation of a means by which to notify and consult with local councillors regarding the preparation of bids for capital projects that will affect their wards.

1.8 As indicated in recommendations 10 and 11 (within paragraph 1.4 above), the exploration of measures to improve public engagement in, and public awareness of, the Council's decision-making processes is assigned to officers. Recommendation 13 (within paragraph 1.4 above) calls for the results of these officer investigations to be included in the task and finish group's report to Council. It is regrettable that this has not proved to be practicable in the timeframe. Once available, this information will be reported to councillors.

⁴ Minute CO40, Council meeting, Guildford Borough Council, 28 July 2015.

2. Our approach ---

- 2.1 Overview and scrutiny task and finish groups are non-party political and achieve consensus by focusing on evidence to reach findings and draw conclusions. Throughout the review, the Review of Governance Arrangements task and finish group sought an evidence-based approach that eschewed politics and personalities. Moreover, it has a mix of members – all political parties are represented, with a co-opted independent person. Some members are from the first Governance Review task group, with others new to the group or the Council.
- 2.2 The task and finish group endeavoured to learn from the experiences of councils that had implemented similar changes in governance arrangements. In particular, to look at how other councils arrived at the decisions they took, the options they introduced or considered, and how changes were implemented and reviewed. However, and as the first Governance Review task and finish group concluded, each council has its own character. This investigation sought to distil and craft the learning from elsewhere to the Guildford context, rather than seek and apply a ‘one size fits all’ solution. Any council has a context, culture and style of its own, and governance has to be created to fit their specific dynamic.
- 2.3 The first meeting of the task and finish group was held on 3 June 2015 and it met a further four times to complete its work in the timescale requested by Council. During its initial meetings, the task and finish group brought those members new to the Council or the group up to speed, received information on improving consultation with ward councillors (referred to in paragraph 1.7 above), and considered updates and issues relating to petitions for a referendum on a formal governance change.
- 2.4 The main work of the task and finish group involved research and analysis of the implications of the changes agreed by Council. A small amount of follow up evidence gathering and liaison with councils was necessary as issues arose. As far as possible, the task group addressed the purpose of a specific governance change before developing the associated structure; that is to say, the preferred approach was that structure should follow purpose rather than precede it.

3. Our proposals ---

- 3.1 In developing the proposals for the governance arrangements changes, the Review of Governance Arrangements task and finish group adhered to the aims espoused by the first Governance Review task and finish group:
- making all councillors feel involved in part of the process of running the Council (especially backbench councillors from all political groups);
 - drawing on all the talents and interests of councillors;
 - enabling experienced councillors to develop near-professional knowledge and competence, whilst allowing new councillors to learn quickly; and
 - increasing engagement with stakeholders and the public.

Executive Advisory Boards (EABs)

Current Position

- 3.2 Through recommendations (2) - (5) (within paragraph 1.4 above), Council has fixed a number of the features of the EABs. For instance, there will be two and political balance will apply to the allocation of their seats. A lead councillor will chair each EAB and their meetings will be held in advance of each relevant scheduled meeting of the Executive.
- 3.3 The terms of reference of EABs, which would be reviewed annually by the Council, are to be aligned to the themes of the Council's Corporate Plan. This alignment is intended to emphasise their role in driving our corporate priorities and give councillors more scope to serve on the boards that best suit their skills and experience.
- 3.4 The first Governance Review task and finish group envisaged that, in essence, the role of the EABs would be pre-scrutiny of executive matters, thereby informing decisions taken by the Executive. The chairing of the EAB by a lead councillor was intended to ensure strong representation of the EABs at the subsequent Executive meeting. Dependent on the matter, the EABs might consider an early stage discussion paper on a major issue or a draft report prior to its formal consideration by the Executive. In addition, the first Governance Review expected EABs to play a role in preparation of the Council's budget.

Proposals for EABs

- 3.5 The task group endorses the responsibilities envisaged for EABs; namely, providing pre-decision scrutiny of significant executive decisions and advising the Executive at an early stage about the formulation and development of policies and projects that will help deliver Corporate Plan priorities. EABs should assist and advise the Executive in preparing its budget proposals and in the development of Policy Framework issues.
- 3.6 The proposed remits of the Executive Advisory Boards, aligned to themes in the new Corporate Plan, are as follows:
- The Borough, Economy, and Infrastructure EAB
 - The Society, Environment, and Council Development EAB
- 3.7 The responsibilities and powers proposed for EABs are described fully in **Appendix 2**, together with suggested arrangements for their membership and meetings.
- 3.8 Perhaps of particular note are the implications of treating EABs as if they were formal committees (which they are not, they are advisory committees supporting the executive). EABS will meet in public, be webcast, and be subject to Part C of the Council Procedure Rules and the Public Speaking Procedure Rules and Access to Information Procedure Rules in Part 4 of the Constitution.
- 3.9 Each EAB shall comprise 12 non-executive councillors. Membership of an EAB will not preclude a councillor from membership of an overview and scrutiny committee or task and finish group. EAB and OSC membership does not necessarily create a

conflict of interest (as it remains the responsibility of the Executive to formally take and implement the decision).

- 3.10 Also, the Chairman of each EAB will not be a voting member; the Chairman's role is to listen to the other members of the EAB and to report their views to the Executive. Other lead councillors and senior officers would be expected to attend EAB meetings when required.

A revised Overview and Scrutiny (O&S)

Current position

- 3.11 Under a Leader and Executive model of governance, Overview and Scrutiny is the Council's watchdog. The Council currently operates two overview and scrutiny committees, which also meet occasionally as a Joint Scrutiny Committee to consider matters of mutual interest.
- 3.12 Through recommendations (6)-(8) (within paragraph 1.4 above), Council has approved the reduction to one overview and scrutiny committee. While this single committee will have responsibility for setting its own agenda, the indicated intention is for much of the business of the existing overview and scrutiny committees, in terms of pre-decision scrutiny of executive decisions, to transfer to EABs.
- 3.13 Council has agreed that, ordinarily, the chairman of the OSC will not be from the majority political group or a chairman of any other committee (see recommendation (7), within paragraph 1.4 above).
- 3.14 The first Governance Review task and finish group envisaged that O&S would be responsible primarily for post decision review of Executive decisions and wider external scrutiny, and commissioning task and finish groups. Underpinning the proposals for the change to O&S is the suggestion that through its topic selection and mode of working, the OSC could create a forum for public engagement in matters of local concern.
- 3.15 Co-opted members are a good way to increase public involvement in scrutiny. O&S currently has the power and autonomy to appoint co-optees as required and this will continue. However, it is worth noting that the relevant EAB may need to decide whether the current co-options (the chairman and vice-chairman of the Tenants Action Group) will transfer.
- 3.16 The previous task group supported the idea of O&S using innovative ways to scrutinise matters of concern outside the formal committee process. The task group's report mentioned examples: the commissioning of reports, a task and finish model of working, the creation of sub-committees, and holding select committees or public hearings. (As O&S has been centred primarily upon committee meetings, held in a council chamber, then the current baseline for innovation might be viewed as relatively low.)
- 3.17 The Corporate Governance and Standards Committee undertakes, as part of its terms of reference, significant monitoring and reviewing of the Council's corporate governance and audit and accounts activities. This committee supports the overview and scrutiny function through ongoing scrutiny of financial matters, including its examination of the treasury management function and budget monitoring.

- 3.18 Budget scrutiny and budget monitoring would occur primarily through the specialist Finance Scrutiny Group and the Corporate Governance & Standards respectively. However, particularly given the ongoing austerity, we expect O&S to scrutinise and challenge the council's use of public money more.

The legal context

- 3.19 Legislation makes clear that an OSC has the power to investigate, and make reports and recommendations on any local authority functions (whether the responsibility of the executive or not). Moreover, O&S has specific power to make recommendations on "matters which affect the authority's area or the inhabitants of that area."⁵
- 3.20 Whatever a Council may determine, and its Constitution state, it cannot overrule this legislation and (openly) restrict the powers of O&S (even if it wished to). Similarly, call-in⁶ is an OSC power.
- 3.21 The Councillor Call for Action (CCfA) requires that provision is made for any member of the Council to put a matter relevant to the functions of an OSC on the committee's agenda. Also, the Council is required to designate a crime and disorder committee, which must be an OSC and meet at least once a year. This committee considers any crime and disorder CCfA.

Interaction between EABs and O&S

- 3.22 The first Governance Review task and finish group envisaged that much of the business of the existing two OSCs would transfer to the new EABs. Indeed, and while acknowledging that O&S would set its own work programme, it was predicted that the new OSC would be responsible primarily for post-decision review of executive decisions and wider external scrutiny, and commissioning task and finish group investigations.
- 3.23 Crucially, as indicated above, O&S will retain the power to undertake pre-decision scrutiny of the Executive. Therefore, pre-decision scrutiny of executive matters is *nominally* the preserve of the EABs – the power of O&S to undertake such a role is enshrined in legislation.
- 3.24 Yet, this is a minor issue as under the revised O&S function it is to be expected that such pre-decision scrutiny will be undertaken by O&S very infrequently. While commenting on upcoming decisions can help Executive members, *is it really holding them to account?* Often it can serve to give councillors an awareness of what is going on and a feeling that they are able to contribute quickly and directly. Generally, speaking, it is better suited to the realm of EABs.

⁵ Local Government Act 2000 (as amended by the Localism Act 2011), section 9F.

⁶ Call-in is the power to recommend that a decision be reconsidered, or that it be implemented. The call-in mechanism at Guildford Borough Council: implementation of almost all Executive decisions is delayed for a period of 5 days to provide an opportunity for overview and scrutiny councillors to call-in the decision for consideration by an overview and scrutiny committee.

- 3.25 Regular communication and liaison between EABs and O&S is clearly desirable, particularly over the issue of pre-decision scrutiny. The devices for liaison and communication must be clearly set out and understood. We propose that the chairmen and vice-chairmen of the OSC and EABs meet formally at least bi-monthly to exchange and discuss work programmes.
- 3.26 We would expect the chairmen and vice-chairmen of EABs to hold similar meetings to ensure the development and maintenance of the EABs' work programmes.

Proposals for a revised O&S

- 3.27 O&S is a key part of the Council's governance. The first Governance Review task and finish group emphasised the importance of effective scrutiny as a vital part of the Council's wider system of checks and balances. They affirmed that the loss of one scrutiny committee should not in any way be taken as a sign of any reduction in the importance of scrutiny within the Council.
- 3.28 The first Governance Review task and finish group foresaw O&S acting as a forum for public engagement in matters of local concern, primarily through its topic selection and mode of working. In addition to such public involvement and public scrutiny we recommend that O&S focus on:
- Post-decision scrutiny – including call-in
 - Policy review and development
 - Questioning members of the Executive / decision-makers (including checking that performance management is being undertaken)
 - External scrutiny (including Crime and Disorder committee)
- 3.29 Such a role would constitute a step change for the Council. Accordingly, we recommend O&S adopt the four core principles of the Centre for Public Scrutiny (CfPS). These principles help broaden understanding of the most important qualities of scrutiny and accountability:
- constructive 'critical friend' challenge
 - amplifies the voices and concerns of the public
 - led by independent people who take responsibility for their role
 - drives improvement in public services
- 3.30 Likewise, O&S should have a dedicated budget. The Council has already accepted in principle that O&S work around policy development and review may incur costs for "things that they reasonably consider necessary to inform their deliberations." Examples of such costs are site visits, conducting public surveys, holding public meetings, and commissioning research.⁷

⁷ Overview and Scrutiny Procedure Rule 10, Part 4 of Guildford Borough Council Constitution, page 4-58.

- 3.31 Nationally, the levels of discretionary budgets for O&S reflect the ongoing austerity. The latest CfPS annual survey of scrutiny in local government shows the average discretionary budget for councils has reduced to £3,277 (from a 2005 high exceeding £18,000) and for district councils it is just £1,277. The announcement of such a low figure would be unrealistically low, perhaps worse than tokenistic, particularly given the current baseline from which O&S will have to develop into its revised role. Therefore we propose the discretionary budget for O&S be set initially at £5,000 p.a.
- 3.32 The responsibilities and powers proposed for O&S are described fully in **Appendix 3**, together with suggested arrangements for its membership and procedures.

4. Resources

- 4.1 As was made clear at full Council in April and July 2015, implementing the proposals has resource implications, principally financial. Information gathered by the first Governance Review task and finish group has shown that similar executive advisory committees elsewhere are resource hungry, particularly at a senior officer level and for committee services⁸.
- 4.2 To recap, as the table below illustrates, the introduction of two EABs and the reduction to a single overview and scrutiny committee might be expected to increase the headline number of meetings supported from sixty-four to seventy-nine each year.

Table showing increase in the headline number of meetings

	Current number of scheduled meetings per annum	Future number of meetings per annum with 2 EABs and a single OSC
Council	7	7
Executive	12	12
Corporate Improvement Scrutiny Committee	7	-
Customer & Community Scrutiny Committee	7	-
Joint Scrutiny Committee	2	-
Planning Committee	17	17
Licensing Committee	6	6
Corporate Governance & Standards Committee	6	6
EAB 1	-	12
EAB 2	-	12
New O&S Committee	-	7
TOTAL:	64	79

- 4.3 The headline net increase in the number of meetings caused by the creation of two EABs is 15 per year. However, the nature of the increase is important. Supporting EABs and a revised O&S function (with an increased emphasis on public involvement and task and finish investigations) will be resource intensive.

⁸ For example, at Sevenoaks District Council.

Committee administration support

- 4.4 In order to provide the necessary administrative support for the new EABs, Committee Services will require a minimum of one additional Democratic Services Assistant. To an extent, the responsibilities (and cost) of such a post are dependent on the form of support provided for O&S. It should be noted that although a scrutiny support role is not the same as a committee administration role the two roles can be combined, and often are.

O&S support

- 4.5 Research shows a direct correlation between resources available to O&S and its effectiveness.⁹ In many instances, councillors are predominantly non-professional scrutineers and time-limited individuals. Research indicates that for successful O&S the officer support available should offer a number of key competencies; quality scrutiny officer support has a particular skillset.¹⁰
- 4.6 As stated above, supporting task and finish investigations is resource-intensive and will require greater resource than currently provided (even if the task group investigations, based on likely councillor availability, are limited to 2-3 a year).
- 4.7 Currently, the Constitution states that the number of O&S task and finish groups must be commensurate with available resources. Clearly, the expectations of councillors and the public will now be to suppose that resources will correspond to the intended function, particularly in relation to support for O&S.

Dedicated scrutiny officer support

- 4.8 The task and finish group considered whether the revised O&S function should be supported by the appointment of a dedicated scrutiny officer (one who works only to the O&S function). This measure would underscore the step change in how the Council approaches a key part of its governance. It would also pre-empt notions that support for the Executive has been increased at the expense of proper support for O&S. But most important, would the appointment of a dedicated scrutiny officer improve the prospects of delivering successful scrutiny at Guildford?
- 4.9 A dedicated scrutiny officer would be an innovation for Guildford, and consideration of the available support options is perhaps necessary.

O&S support model options

- 4.10 The CfPS identifies four model types of scrutiny for council: committee, generic, integrated, and specialist.
- Committee model: scrutiny support is principally provided by democratic services officers who also provide support to other political forums

⁹ CfPS annual surveys of scrutiny in local government.

¹⁰ This skillset is detailed by Silvester [[here](#)] and discussed further by Dacombe [[here](#)]. Jo Silvester, Mapping Scrutiny Officer Roles: A Competency Framework & Review of Training Needs (2009). Rod Dacombe, Supporting Public Scrutiny: Understanding and developing the role of the professional scrutiny officer (2008).

- Generic model: officers sit in a large team and have responsibilities for scrutiny, corporate policy, and corporate performance
- Integrated model: scrutiny support comes mainly from policy officers in service departments
- Specialist model: councils have a dedicated scrutiny support team /officer

Guildford's current and future support model

- 4.11 Guildford's current model is not easy to assign to the above typology. Currently committee services provide limited policy support as time permits (defined by the CfPS as helping councillors by carrying out research, writing briefs, preparing reports and recommendations and so on) alongside admin support, and the Policy and Partnerships Officer offers policy advice. On top of this, pre-decision scrutiny at committee meetings is often fundamentally shaped by suggestions for discussion put forward by the Executive or service department officers (through the formal committee report).
- 4.12 Maintaining the current support model has cost advantages, but little else to recommend it. For the purposes of this report, it constitutes the do-nothing option for O&S support.

Generic posts for scrutiny support

- 4.13 Significantly, under this model O&S functions would continue to be covered by officers who also have other substantive responsibilities. The CfPS has noted that such responsibilities can mean that councils lack the capacity to provide support to councillors to scrutinise transformation and major change or projects. The CfPS does not favour this model of support:

“Inevitably, it [this model] fails to take into account the unique skillset required by dedicated scrutiny officers, and risks officers' time for scrutiny support being 'crowded out' by work for the executive, to say nothing of the potential for conflicts of interest between executive, and non-executive, support.”¹¹

Integrated model of support

- 4.14 Similar issues attach to the integrated model of support, particularly the issues of independence and conflict of interest.

Specialist model

- 4.15 The task group conclude that the revised O&S function is best supported by the appointment of a specialist scrutiny officer. This is the best solution to meet the Council's needs. Such a measure would greatly increase the likelihood of successful scrutiny at Guildford. Dedicated officer support throughout the O&S process would underscore the step change in how the Council approaches a key part of its

¹¹ Annual survey of overview and scrutiny in local government, 2014–15 (CfPS, 2015), p.10.

governance. It would also dispel any notion that the governance review had resulted in increased support for the executive at the expense of proper support for O&S.

- 4.16 The task group noted the role of a statutory scrutiny officer (required at top tier councils), includes promotion and support for O&S, and the provision of advice to officers and members about overview and scrutiny committees. The task group also noted the status and independence of the statutory scrutiny officer position, while being mindful of the differences between supporting O&S at a unitary level and at a district level. An outline of the main duties and responsibilities of a dedicated scrutiny officer is set out for information in **Appendix 5**.

Location of scrutiny support within the Council

- 4.17 The location of the role of a dedicated scrutiny officer in the organisation is a matter for officers to resolve and would be determined as part of the current review of the senior management structure.

Resourcing the changes

- 4.18 It is recommended that, in order to provide additional resources to support O&S and to accommodate the anticipated increase in the number of meetings due to the introduction of two EABs, consideration be given to the provision of:

- (1) a dedicated full-time scrutiny officer - Band 7 salary range between £38,318 and £43,936 (excluding oncosts), subject to job evaluation;
- (2) a full-time Democratic Services Assistant - Band 4 salary range between £24,093 and £28,118 (excluding oncosts), subject to job evaluation; and
- (3) a discretionary budget for O&S to be set initially at £5,000 p.a.

Councillors' Allowances Scheme

- 4.19 Implementation of the recommendations may affect the Councillors' Allowances Scheme in terms of special responsibility allowances, and the overall budget for the Scheme, but the nature of this impact is not possible to ascertain at this time. It is envisaged that Guildford's Independent Remuneration Panel will undertake an interim review of the elements of the Scheme affected in 2016.

5. Implementation

- 5.1 A key lesson evidenced from the introduction of a similar governance arrangements change elsewhere is the importance of member-led briefings in advance of the changes.¹²
- 5.2 O&S training and awareness raising for members is being prepared for consideration as part of the Council's development of councillors. Such measures are welcome, particularly if developed into a programme of training and development rather than a one-off initiative.

¹² For example, at Tunbridge Wells Borough Council.

- 5.3 Similarly, a revised O&S function seeking to engage and involve the public in scrutiny should be publicised and launched. There is a clear need to communicate and promote the changes to the public and to our partners.¹³ Similarly, staff training on the changes is advisable.

Timetable

- 5.4 Therefore, we commend the implementation timetable below as both advisable and viable:

17 September 2015 – Joint Scrutiny Committee	Consideration of task group report
29 September 2015 – Executive	Consideration of task group report
7 October 2015 – Council	Determination of governance arrangements change
October – December 2015	Member and stakeholder briefings and wider publicity for governance arrangements changes (including the potential roles of O&S)
8 December 2015 – Council	Constitutional amendments, including revised timetable of meetings, and appointments to EABs and OSC
1 January 2016	Commencement date
By 1 January 2017	Formal assessment of the governance change

- 5.5 Submission of a valid petition for a referendum on governance change could impact the implementation of the improvements to the Council’s governance arrangements. While the option to delay progressing governance improvements due to possible derailment by a governance change referendum is rejected by the task group, inclusion of a brief discussion of the issues is worthwhile (see Appendix 4).

Monitoring the change

- 5.6 A formal review of the governance change should be held 12 months after implementation, but on the understanding that adjustments could be made earlier if necessary. An advantage of informal governance arrangements change, compared with a decision for a complete change in governance structure (that is to say, from the current Leader and Executive model to a committee system or directly elected mayor) is that the Council retains the flexibility to continually adapt and improve the model in the light of experience.

¹³ Partner authorities must “have regard to” reports and recommendations of an Overview and Scrutiny Committee and must provide information to an OSC which an OSC may reasonably require. Local Government Act 2000 (as amended by the Localism Act 2011), section 9FF. Local Authorities (Overview and Scrutiny Committees) (England) Regulations 2012, regulation 4.

6. Recommendations

- (1) That the arrangements for EABs, as detailed in Appendix 2 of this report of the Review of Governance Arrangements task and finish group, be approved.
- (2) That the terms of reference and rules of procedure for a single OSC, as detailed in Appendix 3 of this report of the Review of Governance Arrangements task and finish group, be approved.
- (3) That, in order to provide additional resources to support O&S and to accommodate the anticipated increase in the number of meetings due to the introduction of two EABs, consideration be given to the provision of:
 - (a) a dedicated full-time scrutiny officer - Band 7 salary range between £38,318 and £43,936 (excluding oncosts), subject to job evaluation;
 - (b) a full-time Democratic Services Assistant - Band 4 salary range between £24,093 and £28,118 (excluding oncosts), subject to job evaluation; and
 - (c) a discretionary budget for O&S to be set initially at £5,000 p.a.
- (4) That the governance arrangements changes be communicated to stakeholders, partners, and the wider public.
- (5) That a review of the governance arrangements changes be held after a 12 month period.

7. Annexes

- Annex A: Review of Governance Arrangements Overview and Scrutiny Task and Finish Group, Final Report, April 2015
- Annex B: EAB arrangements
- Annex C: O&S arrangements
- Annex D: A note on petitions for a referendum on governance change
- Annex E: Proposed scrutiny officer role

Review of Governance Arrangements

Overview and Scrutiny Task and Finish

Group

Report to the Joint Scrutiny Committee

Guildford Borough Council

Dated: 7 April 2015

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Foreword

The term governance is defined as ‘the action, manner, or system of governing’ and is therefore crucial to the workings and perception of any council within their community. Governance is about how local government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner¹. Guildford Borough Council currently operates a Leader and Executive (Cabinet²) model, alongside two overview and scrutiny committees. The aim of any governance model is to make sure that decision-making is transparent, efficient and accountable.

The Task and Finish Group comprised a cross-party group of seven councillors, plus a co-opted independent member of the public, supported by officers. Our task was to be open-minded, looking at all options and studying the advantages and disadvantages of all systems.

We looked at what is important in governance, asking a broad group of stakeholders for their opinions, which we used as design principles to assess our current system against those used elsewhere. We looked at options for change to our current system, to reassess how we make and scrutinise decisions, how involved councillors feel in the process and how effectively all stakeholders, including residents, are engaged in the process.

The system chosen by any council will depend on many factors, both political and cultural and one system is not inherently better (or worse) than another. Our criteria from the outset were to be guided by principles, practice, and procedure, and to ignore politics and personalities. The group felt that the process we went through was thorough, positive and engaging and, overall, an excellent example of an in-depth, non-partisan overview and scrutiny investigation.

Following our visits and stakeholder engagement events, we appraised the merits of the feedback we had received. We found that, for some external stakeholders, there was not a clear understanding of:

- how the current system of governance, or other governance options, worked
- the checks and balances in the current system
- the level of opportunity for councillors to inform decision-making by their involvement in various working groups, task and finish and other groups
- the level of opportunity for residents/stakeholders to inform and influence decision-making

The feedback we received from all our stakeholders was both honest and constructive, and we thank them for their clarity.

Our aim in this report is to put forward a solution which addresses the priority issues raised through the review and results in a clearer decision making process which engages more widely in all areas.

As the chairman of the Task and Finish Group, I would like to thank the Task and Finish Group members, together with the various officers who have supported us, for their diligence and hard work in contributing to the review and the proposals we are making. I would also like to thank officers and councillors at other councils for their hospitality and for being honest and forthright in answering our questions.

Councillor Tony Rooth
Chairman, Review of Governance Arrangements Task and Finish Group

¹ Delivering Good Governance in Local Government: Framework (Society of Local Authority Chief Executives (SOLACE)/Chartered Institute of Public Finance and Accountancy (CIPFA) 2007)

² In common with many councils, Guildford Borough Council decided (in 2001) to use the term “Executive” rather than “Cabinet”. In this context the two terms are synonymous

1. Introduction

Background

1.1 The Task Group membership comprised:

Councillor Tony Rooth (chairman)
 Councillor David Goodwin
 Councillor Angela Gunning
 Councillor Nikki Nelson-Smith
 Councillor Jennifer Powell
 Councillor Caroline Reeves
 Councillor Pauline Searle
 Mrs Maria Angel (co-opted independent person)

1.2 The following officers supported the group during its investigations:

Sue Sturgeon (Managing Director)
 Satish Mistry (Executive Head of Governance)
 John Armstrong (Democratic Services Manager)
 Steve Benbough (Policy and Partnerships Officer)
 Sophie Butcher (Committee Manager)
 James Dearling (Committee Manager)
 Carolyn Patterson (PR and Marketing Manager)
 Ciara Swan (Democratic Services Assistant – Intern)

Reasons for the Review

- 1.3 We have sitting councillors who have worked with two of the systems of governance available to councils, namely the Leader and Executive system and the former committee system. For a number of reasons, some councillors from all political parties have felt that the current Leader and Executive system used by Guildford Borough Council was not fulfilling the needs of governance.
- 1.4 This discontent has manifested itself by the tabling, on two separate occasions, of motions to Council seeking agreement to investigate possible changes to our current governance arrangements.
- 1.5 The first of these, tabled in 2012, noted that many councillors were unfamiliar with differences between the current executive system and the committee system. As a result, a seminar was held to assist councillors in making an informed decision with respect to considering any change, and improve councillors' understanding of the differences between the two systems. Ed Hammond from the Centre for Public Scrutiny gave a presentation to councillors on this matter. At the time, the Council was also undertaking a separate review of its overview and scrutiny function and, in many respects, consideration of a possible change in governance was overtaken by the scrutiny review, as it was felt that the perceived weaknesses of scrutiny had been largely responsible for the discontent referred to above.
- 1.6 The second and most recent motion was tabled at the Council meeting on 7 October 2014, and was adopted by the Council as follows:

“It was a Conservative and Liberal Democrat manifesto commitment in 2010 that led to the Localism Act 2011 giving local authorities the freedom to

determine for themselves whether to operate an executive system, a committee system or other agreed governance arrangements.

This Council requests the Joint Scrutiny Committee to review all available decision-making models and to make recommendations to scrutiny, Executive and full Council on improvements to the governance arrangements”.

- 1.7 Against a background of concern over councillor involvement in the Council’s decisions and issues raised about the Draft Local Plan and its consultation process, a group of local residents started a petition in June 2014. The petition-organisers, Local Democracy Limited, are asking for a referendum on whether the Council should operate under a committee system. If a valid petition is received, a Borough-wide referendum would be held, which would cost in the region of £110,000. If there was an affirmative vote at the referendum, the Council would be obliged to introduce a committee system by no later than May 2016. The Council would then be unable to change its governance arrangements for a period of ten years, unless it held a further referendum.
- 1.8 Following the adoption of the motion referred to in paragraph 1.6 above, the Joint Scrutiny Committee met on 13 November 2014 and resolved to establish a task and finish group with a broad remit to do this work and to report its findings and recommendations to the Council within the 2014-15 municipal year.

2. **Current situation**

This section sets out the national legislative framework as well as the local setting.

National context

- 2.1 Until the passing of the Local Government Act 2000 (‘the 2000 Act’), local government in England operated under a committee system model of governance. The proposals for councils to adopt entirely different models of working began to gather pace in the late 1980s, and over the course of the 1990s, a large amount of research was carried out on preferred models of governance on behalf of the government. The Audit Commission was, in the 1980s and 1990s, particularly vocal about the perceived shortcomings of the committee system. They, and to an extent the former Department of the Environment (which was responsible for local government at that time) were concerned that decision making under the former committee system was:
- Unstrategic (i.e. councillors were involved in micro-management);
 - Complicated (i.e. large numbers of committees);
 - Slow (i.e. multiple sign-offs of key decisions, including sign-off at an overarching policy and resources (P&R) committee);
 - Prone to exclusive control by the majority party (i.e. all the committee chairs, from the majority party, acting as a de facto Executive)
- 2.2 The 2000 Act (and followed up later by the Local Government and Public Involvement in Health Act 2007) aimed to give local people a chance to have more say in how they are governed. Councils were required to replace their committee systems and develop separate executive and scrutiny functions. Councils were required to consult local stakeholders and propose one of three types of arrangements for future council governance:

- Directly elected mayor and an Executive appointed by the mayor
- Council leader appointed by the Executive with the Executive appointed either by the council or the leader
- Directly elected mayor and council manager (this model was later withdrawn in the 2007 Act, so is now no longer an option)

2.3 There was a 'fourth option' only open to district councils with populations of less than 85,000, which involved continuing with a committee system.

Directly elected Mayor and Executive

2.4 Initially, a directly elected mayor could only be established following an affirmative vote at a referendum. Since 2007, councils have been empowered to establish an elected mayor by resolution. The majority of referenda on creating elected mayors have resulted in 'no' votes. Currently, 15 councils out of a total of 326 in England have directly elected mayors. This figure does not include the Mayor of London and the Greater London Authority, which are covered by separate legislation and have quite different powers to other directly elected mayors. Councils with elected mayors do not have powers over and above those available to councils operating a Leader and Executive model. Proposals have also been made for 'metro mayors' or city-region mayors, covering geographical areas wider than single local authorities.

Leader and Executive

2.5 This is the governance system that most councils operate. In some councils, individual members of the Executive have decision-making powers; in others, decisions have to be made by the whole Executive. The Executive is led by a leader, who is elected by full council for a term determined by the council itself or on a four yearly basis (and will usually be the leader of the largest party on the council). These councils must have at least one overview and scrutiny committee. The Executive comprises a group of no more than ten councillors and is responsible for executive functions, with the remaining councillors responsible for setting the budget and policy framework within which the Executive must operate, supporting policy development, and scrutinising the performance of the Executive.

2.6 Following amendments to the 2000 legislation in 2007, the leader and executive model was modified with the introduction of the concept of a "strong leader". Under this model, the leader elected by the Council appoints up to nine other councillors to the Executive (including a deputy leader) and determines their respective areas of responsibility. The new style leader became responsible for the discharge of all executive functions within the council and could choose how to discharge those functions.

The Committee System

2.7 Since the Localism Act 2011, this option is now available to all councils. As stated above, it was previously available only to district councils with populations under 85,000. Committee system councils make most decisions in committees, which are made up of a mix of councillors from all political parties. These councils may have one or more overview and scrutiny committees but are not required to.

2.8 It is worth noting that the committee systems being introduced by a number of councils under the powers now available in the Localism Act 2011 bear little resemblance to the committee systems operated by all councils prior to the

introduction of the 2000 Act. The pre-2000 committee systems were characterised by committees with specific, service-based responsibilities focusing on operational matters and with little delegation of powers to officers, which meant that a great deal of time at meetings of those committees dealt with mundane, operational matters. The modern, post Localism Act, committee systems have, to some extent, attempted to address some of the shortcomings with the introduction of committees with greater cross-cutting areas of responsibility and the retention of comprehensive schemes of delegation of powers to officers to deal with the operational management of services.

Hybrid arrangements

- 2.9 There are variations for each of these models that can lead councils to adopt hybrid approaches; typically, this is a hybrid between Leader and Executive model and the committee system (with such an approach usually seen legally as being a modified version of the Leader and Executive system, and therefore not requiring a formal change under the Localism Act). Councils also have the option of suggesting an approach of their own to the Secretary of State. No detailed criteria have been set out for how the Secretary of State will come to a decision about whether or not to approve any option suggested under this part of the Act.

Local context

- 2.10 The 'strong leader' model was introduced in Guildford (and other non-metropolitan district councils) in May 2011. The Council also operates two overview and scrutiny committees whose responsibilities include holding the Executive to account, performance monitoring and policy development. The two committees meet occasionally as a Joint Scrutiny Committee to consider matters of mutual interest, including the Leader's Annual Report. The Council's current decision-making structure is set out in the organogram attached as **Appendix 1**.
- 2.11 The Leader appoints up to nine other councillors to the Executive who, in Guildford, are referred to as Lead Councillors.

3. Process and evidence

Approach of the Task and Finish group

- 3.1 This Overview and Scrutiny Task and Finish Group was set up with cross party support, including a co-opted independent person, to consider:
- (a) Key attributes of an effective governance structure (which will inform the task and finish group's final recommendations as to which governance model would best meet such key attributes);
 - (b) Factors driving the calls for change; and
 - (c) Devising the best solution relevant to the Council's needs

The Task and Finish Group needed to understand these first so that a suitable governance system could be designed and evaluated.

- 3.2 Throughout the review, the Task and Finish Group's approach sought to be guided by principles, practice and procedure and to ignore politics and personalities.

- 3.3 The first meeting of the Task and Finish Group was held on 26 November 2014 and it met on a weekly basis to undertake its work in the timescale requested by the Council at its October meeting.
- 3.4 We agreed that we needed to achieve a shared baseline for what the principles of good governance are before designing a governance system that would best deliver these principles.
- 3.5 The design principles would also allow us to ensure we were working towards principles that applied to all and not just the Task and Finish Group, and would provide a mechanism to enable a monitoring and evaluation of the change once implemented (rather than measuring outputs such as speed of decision-making).
- 3.6 The potential high-level, core design principles we agreed to explore with stakeholders were six fold:
- Focusing on the purpose of the council and on outcomes for the community and creating and implementing a vision for the local area
 - Councillors and officers working together to achieve a common purpose with clearly defined functions and roles
 - Promoting the values of the council and demonstrating the values of good governance through upholding high standards of conduct and behaviour
 - Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - Developing the capacity and capability of councillors and officers to be effective
 - Communicating and engaging with local people and other stakeholders to ensure robust public accountability

These principles reflected those referred to by SOLACE/CIPFA in their Good governance in Local Government framework (2007). The Task and Finish Group recognised that, in the context of the Council's governance arrangements, many of these principles were matters affecting the culture of the organisation rather than its structure.

- 3.7 We felt that an analysis of other councils who had made changes to their governance system would give a wide-ranging view of the issues and challenges experienced by them and the solutions they introduced or considered.
- 3.8 We resolved to engage in the widest possible way with all those who may be working in or affected by decisions made by the Council.

Formulating design principles for the Council's decision making process

- 3.9 It was agreed that we would invite various stakeholders to present to us their thoughts on governance, to visit other authorities who had looked at the issues around governance change, to engage councillors, council officers and stakeholders in consultation meetings and anonymous questionnaires and anonymous surveys, and to hold a public consultation through an online anonymous survey. Extensive desktop research underpinned and informed this approach.
- 3.10 We also reviewed a number of documents relating to good governance framework, including:

- [Good governance in Local Government framework](#) (SOLACE/CIPFA - 2007)
- [Changing governance arrangements- Policy Briefing 4](#) (Centre for Public Scrutiny – December 2010)
- [Musical chairs - Practical issues for local authorities in moving to a committee system](#) (Centre for Public Scrutiny – April 2012)
- [Rethinking governance - Practical steps for councils considering changes to their governance arrangements](#) (Local Government Association – January 2014)

Stakeholders' views

- 3.11 Our review reveals a significant level of agreement between internal stakeholders (that is to say, councillors and officers) about the strengths and weaknesses of the current arrangements. The evidence we used to draw this conclusion was from information gathered at separate engagement events. Unsurprisingly, we found that external stakeholders might not possess as high an understanding of the current system as internal stakeholders. (Although we did note that the awareness and knowledge of internal stakeholders about the decision-making process was not uniformly high.)
- 3.12 We discovered broad understanding and agreement for the range of key, high-level design principles. This support was embedded in an appreciation of good governance that was common to all groups. While differences among stakeholders concerning specific, detailed objectives can be distinguished, it is clear to us that there is much unanimity concerning the route forward. For example, the Council must convey more clearly the opportunities for involvement in the decision-making process available to all councillors and stakeholders, and the measures taken to ensure that decisions are taken in accordance with the law and the Council's Constitution.

Workshops

- 3.13 To help collect the views of councillors, the corporate management team, senior officers, and external stakeholders we ran separate engagement workshops. The theme for each was *What is good governance?* The format for each was tailored according to the circumstances and the participants (as detailed in **Appendix 2**). For instance, external stakeholders were asked to identify and prioritise key design features for any new governance arrangements for the Council, whilst internal stakeholders, who would be more familiar with the existing system, were asked to identify and rank the strengths and weaknesses of our current arrangements as well as identifying and prioritising key design principles. The results of these workshops were supplemented by separate, online questionnaires for councillors, all officers, and members of the public. The responses to the questionnaires are summarised in **Appendix 3**.
- 3.14 All the workshops included a whole group session to help identify the qualities and characteristics of good governance desired for Guildford Borough Council. The results of each workshop are considered below:
- 3.14.1 Councillor Engagement – 17 December 2014
The councillors' workshop was attended by twenty-seven councillors, including the Leader of the Council and five lead councillors. It prioritised the following governance principles:

- Timely decision-making
- Greater involvement of ward councillors
- Accountable decision-making
- Scheduling of scrutiny business to provide an early opportunity to influence policy formulation
- Engagement of all councillors
- Public trust and knowledge

Councillors who were unable to attend the workshop were able to contribute their ideas and opinions through an anonymous, online survey.

3.14.2 External Stakeholder Engagement – 27 January 2015

We invited parish councils, residents' associations and local amenity groups to a workshop for external stakeholders. Thirty-five representatives of these organisations attended the workshop (see **Appendix 4**). While there was general agreement across all the stakeholders as to the essential points of good governance, the following were identified as key design principles for any redesigned arrangements:

- Agree and deliver objectives
- Value for money
- Accountability (to community)
- Communication (two-way, clear, concise)
- Evidence-based decisions
- Simplicity and accessibility
- Honesty, integrity, trustworthiness and transparency
- Less politics/more consensual decision-making
- Define the "community"
- Policy visibility
- Inclusiveness and meaningful engagement (stakeholders)

Members of the Task and Finish Group who observed the event felt that in some instances the issues raised suggested a lack of public knowledge about the work and role of councillors. We therefore recommend the value of more transparency and an increased profile for councillors' current involvement in the decision making process: for example, at the beginning of the decision-making process as members of working and review groups, panels, and other task and finish groups.

3.14.3 Corporate Management Team (CMT) Engagement – 2 February 2015

We held a group interview with the members of the CMT to seek the views of the Managing Director and Executive Heads of Service on our future governance arrangements, and to seek their views on the principles of good governance, the strengths of our current arrangements and areas for further development and improvement. The CMT recognised the strong element of accountability in the current governance arrangements and the historical weaknesses in overview and scrutiny and the improvement in overview and scrutiny that had been achieved over the past two years. We heard that at the time of the 2000 Act, there had been awareness within local government that the executive function would inevitably develop sooner than both the overview and scrutiny function and councillor engagement. CMT questioned whether a formal change of arrangements was the best way to achieve increased councillor engagement.

3.14.4 Senior Officer Engagement – 4 February 2015

Twenty-three senior officers engaged in a similar workshop to that held for the councillors. In essence, this group felt that the strong leader system ensured speedier decision-making and accountability. Another key finding from the event was a desire for the involvement of councillors in policy formulation and strategic decisions but not in operational matters. Officers emphasised the advantages of making effective operational decisions independently of councillors.

The view was expressed that the size of Lead Councillors' portfolios could be too large and might be more manageable. In addition, officers felt that Lead Councillors taking more individual executive decisions would be beneficial. While we understand that the Leader of the Council decides the responsibilities of Lead Councillors, we consider this an area for further development. It is also apparent to us that some officers need greater awareness about the role of councillors and the advantages of involving councillors in matters relating to their respective wards. More effective use of the induction programme for new staff was one method of addressing this matter.

3.14.5 Online Questionnaires

As mentioned above, councillors, officers, and the public were invited to share their views on governance through anonymous online questionnaires. While the format was tailored to the target audience, we sought views on the six potential high-level principles referred to in paragraph 3.6 above. The sentiments of these principles were broadly endorsed by all stakeholder groups.

Although we encouraged engagement with the public in relation to the review, the actual level of response was very low. Those who did respond generally supported the key design principles referred to above. A number of responses also referred to the importance of focussing on care and protection for the community, preventing undue influence and ensuring all councillors could comment on decisions.

3.14.6 Engagement with Referendum Petition organisers – 11 February 2015

As the key external stakeholders interested in changing the governance arrangements of the Council we felt it important to meet the petition organisers (Local Democracy Limited) and hear their concerns and views first-hand. Three representatives of Local Democracy Limited attended a meeting with us. In summary, the petition organisers did not feel that the Strong Leader and Executive system represented all residents and indicated that it was inherently undemocratic on the basis that too much power was concentrated into too few hands. We feel it is significant that although the aim of the petition is a formal change to a committee system, the petition organisers did indicate that a hybrid system could be an acceptable alternative to the current arrangements, subject to the provision of effective checks and balances. It was also noted that moving to a hybrid system could be achieved unilaterally with immediate effect and its effectiveness monitored, whereas a formal change in system could not occur before May 2016 at the earliest and would be binding for five years (or ten years following a referendum).

3.14.7 Engagement with Local Media – 11 February 2015

We invited key local media to meet with us. Representatives who attended expressed the view that Governance as a topic was not very engaging for the public, and would only be of interest to anyone with issues over decisions that had been made. In terms of newsworthiness, the topic was not viable, but the comments by those who had an opinion about it would be newsworthy – and inevitably they would be negative in nature.

Visits to and consideration of governance arrangements and change elsewhere

External advice – Centre for Public Scrutiny (CfPS)

- 3.15 We sought the advice and guidance of Ed Hammond of the CfPS at the beginning of this process. The CfPS is a charity whose principal focus is on scrutiny, accountability and good governance, both in the public sector and amongst those people and organisations who deliver publicly funded services.
- 3.16 Mr Hammond advised that the governance change options available to councils are best viewed as a spectrum rather than specific models, Governance change can often be viewed (incorrectly) as a panacea for all the Council's perceived political ills. Identical systems will operate differently in different councils due to variables such as the size of the majority party, the culture of the leadership, and the perceived public engagement in decision-making. Changing a council's governance structure does not, in itself, make the organisation more open to engagement.
- 3.17 Mr Hammond explained the background to the reviews undertaken by Fylde Borough Council and Canterbury City Council. Fylde held a referendum based on a fractious relationship, due to a number of issues, between the Council leadership and the petition organisers (Civic Awareness Group). Canterbury City Council voted for a change from an Executive model to a committee system when faced with a petition calling for a referendum on the change. The petition was organised by a protest group, supported by a small group of backbenchers from the majority party, who were unhappy with decisions made on the Council's Local Plan.

Paper-based evidence

- 3.18 With guidance from Mr Hammond, we surveyed a number of other authorities, which had investigated and implemented changes to their governance system, or were in the process of implementing such changes. The authorities selected were:
- Brighton & Hove City Council
 - Canterbury City Council
 - Fylde Borough Council
 - London Borough of Sutton
 - Mole Valley District Council
 - Reading Borough Council
 - Sevenoaks District Council
 - Stroud District Council
 - Tunbridge Wells Borough Council
- 3.19 Officers compiled a table showing, for each council, the drivers for change, the principal elements of its governance structure, details of any review carried out of the effectiveness of the structure, details of the cost of implementing changes and the extent to which the public and other stakeholders were engaged in the change process. A copy of this evidence paper is attached as **Appendix 5**.
- 3.20 We also gathered information from Guildford's neighbouring councils on whether they had undertaken, or were contemplating, a review of their governance structure and what works well (and not so well) with their current governance structure. This information is attached as **Appendix 6**.

Visits

- 3.21 As a Task and Finish Group, we agreed to visit a number of other councils (or invite them to visit us) who had looked at the issues around changing the system of governance, how they arrived at the decisions they took, whom they consulted and how the changes would be implemented and reviewed. It became very clear from the people we met that each council had its own character and that there would not be a 'one size fits all' solution. Any council has a context, culture and style of its own, and governance has to be created to fit their specific dynamic.
- 3.22 We decided to visit Canterbury City Council (as it was in the process of changing to a committee system in May 2015), Tunbridge Wells Borough Council (as it had adopted a 'hybrid' leader and executive structure in 2012) and Mole Valley (as it had changed from a committee system to a leader and executive structure in 2008). These visits were preceded by a visit to us from Robin Hales, former Chief Executive of Sevenoaks District Council, which had adopted a 'hybrid' leader and executive arrangement.

3.22.1 Sevenoaks District Council – 3 December 2014

Mr Hales indicated that Sevenoaks had struggled with the scrutiny process with non-executive councillors feeling disengaged from decision-making and at the "back-end of the conveyor belt acting as a quality control mechanism rather than having any meaningful input". At the time of change to the 'hybrid' structure, Sevenoaks had a majority group of 48 councillors out of 54 with a five member Executive. The main drivers for change were members of the majority group. The Executive was perceived as being too remote and non-inclusive with no apparent succession planning for the development of non-executive councillors.

The Executive is now wholly advised by five Cabinet Advisory Committees³ (CACs), each of which has an area of responsibility covered by a lead councillor from the Executive, who chairs the committee, although the CACs are free to elect a chairman of their choice. CACs have a degree of autonomy to decide what goes to Executive, including initiating their own research and reviews and instructing officers in that regard. The benefit of CACs has been more councillors having a greater level of knowledge and expertise on the specific areas of responsibility.

The new structure was reviewed after 12 months' operation. This found that councillors are now generally more engaged in, and have more influence over, decision-making. There had been concerns that a more elaborate process would slow down speed of decision-making. The Executive still meets monthly and the CACs all meet before the Executive meets in the cycle so that they can influence Executive decision-making.

Although councillors are more engaged under the 'hybrid' structure, it has proved to be more resource hungry particularly at senior officer level and for Committee Services.

3.22.2 Canterbury City Council – 28 January 2015

The Task and Finish Group was advised that the City Council reconsidered the governance options in light of:

³ Sevenoaks refers to its Executive as "Cabinet", hence the use of the term "Cabinet Advisory Committees"

- a petition for a referendum on changing governance to a committee system organised by the Campaign for Democracy in the Canterbury District (CDCD), which was an umbrella organisation for several campaign and pressure groups in the area, many of which had been dissatisfied with past Council decisions.
- a boundary review conducted in 2013 (the outcome of which reduced the number of councillors from 50 to 39) and
- a light touch governance review by the Council's Political Management Members Panel (PMMP).

Among its findings, the PMMP concluded that committee systems were often identified as collegiate and inclusive, while the Leader and Executive model was seen as promoting strategic oversight.

The Council's Executive became a focal point for dissatisfaction with decisions, notably the Local Plan; CDCD campaigners did not accept that a committee system would not necessarily result in different outcomes. The CDCD campaign for governance change also fed into political issues within the majority party at Canterbury City Council, that is to say, pushes for governance change in 2014 were both external and internal to the Council.

The CDCD referendum petition was halted in July 2014 by the decision by the City Council to change to a committee system of governance – a decision binding for five years from the date of resolution. The new system will be implemented in May 2015.

After the July 2014 Council resolution, the PMMP acted as a Commission to develop the details of the committee system structure. Although the Commission undertook a consultation exercise which sought responses to particular propositions to be taken into account in the design of the committee system, there was no wide-ranging public consultation due to time constraints with the need to implement the new structure by May 2015, and a lack of interest by the wider public. Four specific design principles were identified by the Commission to provide a framework for Canterbury City Council's committee system structure: engagement, economy, efficiency, and effectiveness. The potential advantages of a hybrid model, possibly adopting a piloted or stepped approach to governance change, were not considered by the Council. The chosen structure was similar to the pre-2002 committee structure of Canterbury City Council.

Three service committees would be aligned to functions rather than officer structures:

- Policy and Resources Committee
- Regeneration and Property Committee
- Community Committee

The Policy and Resources Committee will provide strategic oversight and have greater financial and policy-making powers than the other service committees – “a first amongst equals.” The Council has decided not to include overview and scrutiny in its new structure, but it does have a Decision Review Committee, which has the power to review decisions of the three service committees.

3.22.3 Tunbridge Wells Borough Council - 18 February 2015

The Task and Finish Group was advised that a primary reason for change to a 'hybrid' leader and executive system was a lack of councillor engagement in decision-making at the Council, with those outside the Executive not feeling involved.

The Executive had been seen as not listening to the recommendations and views of overview and scrutiny, call-ins of Executive decisions were frequent, and the then Leader's leadership style was a factor supporting change.

In 2010, a motion of no confidence in the Council's Leader within a meeting of the majority group and his consequent standing down as Leader was a catalyst for governance change. The change in governance arrangements enacted in 2012 was in part a reaction against the Council's previous political leadership, which had been characterised as lacking transparency. The Task and Finish Group was informed that the main driver for change came from backbenchers from the majority group wanting to improve the decision-making process.

The 'hybrid' system established by Tunbridge Wells involved three Cabinet Advisory Boards⁴ (CABs) to consider all the items on the Council's Forward Plan prior to final decisions by Executive, with a provision for taking urgent items. The CABs are chaired by a cabinet member, as it was felt that this encourages lead councillors to take greater responsibility for decisions. The CABs afforded an opportunity for non-cabinet members to scrutinise and shape matters before formal consideration by Executive.

Tunbridge Wells has one Overview and Scrutiny committee, chaired by a councillor from the majority group, which scrutinises issues raised by councillors, often related to the wider borough.

Backbenchers felt more informed and engaged with the new system. They benefited from a programme of member information sessions, which deliver 1-2 briefings each month on topical or key projects. Officers are expected to advise relevant ward councillors in advance of events in their localities and keep them informed. Communication and transparency with residents was seen to improve, aided by regular meetings with key stakeholders such as the chairmen of parish councils and the Town Forum⁵ to notify them about the Council's business and receive feedback.

3.22.4 Mole Valley District Council – 18 February 2015

The Task and Finish Group noted that Mole Valley had, for some time, been under no overall control politically with occasional periods of control by a majority party; elections are conducted by thirds (i.e. elections for a third of the seats are held every year for three years). In addition, many of its services have been externalised, thereby reducing some of the need for meetings with councillor involvement. There has been little consensus among Mole Valley councillors about a preferred system of governance; views on the merits of the committee system and the Leader and Executive system tended to vary between political groups.

In 2007, during a period of one party control, a consultation was undertaken with residents about changing the Council's structure and a move from a committee system to a Leader and Executive model was approved and implemented in 2008. Mole Valley as a council with a population of less than 85,000 could have retained a committee system.

⁴ Tunbridge Wells also name their Executive as "Cabinet"

⁵ The Town Forum is a partnership between Residents' Representatives and ward Councillors in the unparished area of Tunbridge Wells town and its purpose is to address local issues.

The drivers for a change to an executive model had been:

- (i) Belief that an executive model would deliver improved public accountability with clearly identified responsibilities;
- (ii) Streamlined decision-making, delivering greater efficiency and effectiveness;
- (iii) Closer working between councillors and officers to develop the Council's strategic vision; and
- (iv) More democratic working due to the clear split between the roles of the executive and scrutiny.

In 2013, a working group had reconsidered the question of whether to change governance system. The Council voted to retain the Executive model. The Leader gave an undertaking that decisions with "significant" implications for the district would be submitted to the Council before consideration by the Executive. Furthermore, if Council made a specific recommendation then the Executive would not go against this. (The Executive's decision to formally oppose Gatwick's expansion is an example of this understanding in action.) The Task and Finish Group was advised that there was no definition of "significant" as such matters, it was suggested, would be obvious. This undertaking in respect of decisions with significant implications is informal, and could change if the Leader changed, as there was no specific provision for it in the Council's Constitution.

4. Conclusions

Governance Review - Proposals

- 4.1 As set out in previous sections of this report, the Task and Finish Group has undertaken extensive research and consultation on the principles of good governance and potential decision-making structures. There will be tensions between achieving some of the objectives identified. For example, increased engagement by councillors may come at the expense of speed of decision-making or the number of meetings needed. The proposals set out in this section of the report seek to balance some of these competing priorities, whilst always seeking to retain a focus on high quality decision-making.

Proposed Governance Model

- 4.2 The Task and Finish Group is clear that any form of governance model has strengths and weaknesses. Indeed, the Local Government Act 2000 was introduced in response to increasing concerns about the then local government committee system. Perceived disadvantages of the committee system included:

- re-enforcing a silo mentality, which meant cross-cutting issues could be difficult to identify and address;
- more difficult to deliver broad corporate priorities;
- widely considered to be inefficient, slow in decision-making and overly focused on operational matters rather than policy and results;
- whilst open on the surface, decisions in reality were taken by a ruling group (or a small number of committee chairmen from the ruling group) behind closed doors;
- hard to know who is responsible for decisions (accountability questioned);
- committees could avoid taking responsibility for difficult decisions; and
- a perception of high level of political influence in all decisions where the ruling party has a big majority.

- 4.3 The introduction of executive forms of governance helped to address some of these issues in terms of improving the timeliness of decision-making, clear accountability for decisions and dealing with cross-cutting strategic issues. Scrutiny committees also brought new opportunities for councillors to take part in the development of policy, challenge and review areas of concern and engage external partners and the public, and the potential for a wider engagement by councillors when scrutiny is well planned and chaired. The Task and Finish Group is clear in its view that it would not be in the best interests of the Council or its residents to lose these benefits through a committee system form of governance. In short, a formal binding jump to a committee system would be injudicious at this time.
- 4.4 However, the Task and Finish Group recognises that there are areas for improvement in our existing executive arrangements, some of which have been identified through this review process. For example:
- councillors not on the executive can feel disengaged with the decision-making process;
 - non-executive councillors may feel that they have less contact with officers and access to information;
 - responsibility can be seen to be placed in the hands of a few.
- 4.5 Whilst formally maintaining the benefits of an executive form of governance, the Task and Finish Group has developed its proposals with a view to:
- making all councillors feel involved in part of the process of running the Council (especially backbench councillors from all political groups);
 - drawing on all the talents and interests of councillors;
 - enabling experienced councillors to develop near-professional knowledge and competence, whilst allowing new councillors to learn quickly; and
 - increasing engagement with stakeholders and the public
- 4.6 The Task and Finish Group felt that an elected mayor would work against these objectives by further concentrating powers in the hands of an individual. It would, therefore, not support the adoption of this form of executive governance model. The comments received from stakeholders and the public as part of this review, which tended to support more inclusivity in decision-making would also be difficult to reconcile with an elected mayor model.
- 4.7 The Task and Finish Group believes that the benefits of the existing Leader and executive arrangements can be retained, whilst taking measures to improve decision-making processes and inclusiveness, through the adoption of a hybrid model combining elements of both the Leader and Executive model and the committee system.
- 4.8 An added advantage with this is that whilst a decision for a complete change in governance structure (that is to say, from the current Leader and Executive model to a committee system or directly elected mayor) would tie the Council down for an extended period, moving to a hybrid model retains the flexibility to continually adapt and improve the model in the light of experience.
- 4.9 The Task and Finish Group recommends that the Council's decision-making culture should continue to promote the following:
- Accountability
 - Transparency

- High ethical standards
- Involvement and engagement

Our recommendations have been designed to address these principles.

Executive Advisory Boards

- 4.10 It is recommended that, in order to secure greater involvement of all councillors in policy and significant decisions, the Council should establish two politically balanced executive advisory boards. The boards would consider and make recommendations on relevant matters prior to their formal consideration by the Executive. Their terms of reference, which would be reviewed annually by the Council, would be aligned to the themes of our Corporate Plan. This would emphasise their role in driving our corporate priorities and give councillors more scope to serve on the boards that best suit their skills and experience.
- 4.11 Executive advisory boards would have a degree of autonomy to decide what matters they should refer to the Executive and to initiate their own research and reviews, including instructing officers in this regard. They could also set up their own panels or working groups to look at specific issues as and when required.
- 4.12 Each board would meet in advance of the relevant scheduled meeting of the Executive and would be chaired by an appropriate Lead Councillor. This link with a Lead Councillor would provide strong representation of the views of the board at subsequent Executive meetings. Other Lead Councillors would be expected to attend board meetings as and when required, but in a non-voting capacity. All other voting members of the board would be non-Executive councillors.
- 4.13 Whilst the detail of how the executive advisory boards would operate, including their composition, would be a matter for the new Council to determine, we envisage that, in essence, their role would be pre-scrutinising Executive matters, thereby informing decisions taken by the Executive. Dependent on the matter, this may involve consideration of a discussion paper at a very early stage in respect of a major issue and/or a draft report prior to its formal consideration by the Executive. We would also envisage the executive advisory boards playing a vital role in budget preparation.

Overview and Scrutiny

- 4.14 The Task and Finish Group is very clear that effective scrutiny remains a vital part of the Council's wider system of checks and balances. Under the new proposed governance system, it is recommended that one overview and scrutiny committee should be retained. The loss of one scrutiny committee should not in any way be taken as a sign of any reduction in the importance of scrutiny within the Council, especially when taken together with proposed introduction of the two new Executive Advisory Boards.
- 4.15 It is not envisaged that the new overview and scrutiny committee would undertake the business currently being overseen by our existing two committees. In any event, much of that business would transfer to the new executive advisory boards. The new committee would be responsible for setting its own agenda, but it is envisaged that innovative ways would be found to scrutinise matters of concern outside the formal committee process. This could include the commissioning of reports and task and finish groups, the creation of specialist sub-committees for particular issues (e.g. Freedom Leisure and G Live contract monitoring) or holding select committee or

public hearings. Through its topic selection and mode of working, the committee could also seek to use scrutiny as a forum for public engagement in matters of local concern. The committee would retain responsibility for call-in and post-Executive decision review.

- 4.16 Subject to Council approval, this could be reviewed in a year's time and if there is too much work to be scheduled within one scrutiny committee, this matter could be re-visited.
- 4.17 We recommend that the chairman of the Overview and Scrutiny Committee should be a councillor appointed by the Committee who is preferably not from the majority political group or a chairman of any other committee.

Corporate Governance and Standards Committee

- 4.18 The Corporate Governance and Standards Committee undertakes, as part of its terms of reference, significant monitoring and reviewing of the Council's corporate governance and audit and accounts activities. The Task and Finish Group recognises the importance of this committee to the Council, particularly in the way in which it supports the overview and scrutiny function through ongoing scrutiny of financial matters, including its proposed expanded remit on the treasury management function and budget monitoring.

Local Ward Councillors

- 4.19 A common frustration heard during the review was that local councillors were not sufficiently aware of or consulted on matters impacting on their wards. Officers accepted that improvements could be made in this area and changes have already been made to some internal communications channels.
- 4.20 Amongst other things to improve communications with councillors and officers' understanding of the councillor's role, the Task and Finish Group recommends that:
- (a) report authors routinely inform and/or consult with and record the comments of local ward councillors, where appropriate, in reports and amend report templates to include provision for this;
 - (b) provision is made in the procedures for the development of capital bids to routinely inform and/or consult with and record the comments of relevant ward councillors, where appropriate;
 - (c) powers delegated to officers be reviewed to require consultation with, or notification to, local ward councillors in appropriate cases;
 - (d) in the email sent to all councillors notifying them of the publication of an agenda, officers set out the list of items on the agenda (this has already been implemented)
 - (e) new staff induction training includes an element on the role of councillors.

Public Communication and Engagement

- 4.21 It became clear through the review process that there was widespread lack of awareness amongst the public about decision-making processes and the work

undertaken by councillors. We feel that the public do not know that many councillors are involved in policy development and decision-making through working groups, task and finish groups, briefings and seminars adds to the perception that power is concentrated within the Executive. There is also a lack of understanding of the tight checks and balances and ethical codes within which the Council operates.

- 4.22 The Task and Finish Group recognises that governance issues do not readily grab the public's attention, but recommends that the officers investigate (and report back on) ways that we can improve public awareness about:
- (a) the decision-making processes, roles and opportunities for engagement by councillors (i.e. what councillors do);
 - (b) the involvement of individual councillors by a public record on the website, listing all working groups, review groups, task & finish and other groups that councillors are involved with; and
 - (c) the various internal and external checks and balances within which the Council operates.

A list of working groups, review groups, task and finish and other groups that councillors have been involved in over the past 12 months is attached, for information, as **Appendix 7**.

- 4.23 The Task and Finish Group also noted that the introduction of webcasting of Council meetings had been welcomed by members of the public and the local media. Whilst very dependent on the subject under discussion, there is an appetite from the public to be informed and involved in decisions of particular interest to them.
- 4.24 The Task and Finish Group recommends that the officers explore (and report back on) ways to better engage the public in decision-making processes.

5. Recommendations

- (1) That the Council's decision-making culture should continue to promote the following:
 - Accountability
 - Transparency
 - High ethical standards
 - Involvement and engagement
- (2) That, in order to secure greater involvement of councillors in policy/significant decisions prior to formal consideration by the Executive, the Council should establish two politically balanced executive advisory boards.
- (3) That the terms of reference of the executive advisory boards be aligned to themes in the Corporate Plan and be reviewed at the Council's Selection meeting each year.
- (4) That each executive advisory board be chaired by a lead councillor.
- (5) That meetings of the executive advisory boards be held before each relevant scheduled meeting of the Executive.

- (6) That the existing scrutiny committees be dissolved and replaced by one overview and scrutiny committee, which shall be responsible primarily for post decision review of Executive decisions and wider external scrutiny, including the commissioning of task and finish groups.
- (7) That the chairman of the Overview and Scrutiny Committee should be a councillor appointed by the Committee who is preferably not from the majority political group or a chairman of any other committee.
- (8) That the importance of the Corporate Governance and Standards Committee to the Council be recognised, particularly in the way in which it supports the overview and scrutiny function through ongoing scrutiny of financial matters, including its proposed expanded remit on the treasury management function and budget monitoring.
- (9) That, in order to improve consultation with/information for ward councillors, officers be asked to ensure that:
 - (a) report authors routinely inform and/or consult with and record the comments of local ward councillors, where appropriate, in reports and amend report templates to include provision for this;
 - (b) provision is made in the procedures for the development of capital bids to routinely inform and/or consult with and record the comments of relevant ward councillors, where appropriate;
 - (c) a review of powers delegated to officers be undertaken to require consultation with, or notification to, local ward councillors in appropriate cases; and
 - (d) new staff induction training includes an element on the role of councillors.
- (10) That officers be asked to investigate (and report back on) ways in which the Council could improve public awareness about:
 - (a) the decision-making processes, roles and opportunities for engagement by councillors (that is to say, what councillors do);
 - (b) the involvement of individual councillors by a public record on the website, listing all working groups, review groups, task & finish and other groups that councillors are involved with; and
 - (c) the various internal and external checks and balances within which the Council operates.
- (11) That the officers be asked to explore (and report back on) ways to better engage the public in the Council's decision-making processes, including the possible holding of meetings by the Leader of the Council and the Executive to establish dialogue with stakeholders including, but not limited to, parish councils and residents' associations.

Appendices

- Appendix 1: The Council's current decision-making structure
- Appendix 2: Format of workshops with internal and external stakeholders
- Appendix 3: Results of online questionnaires
- Appendix 4: List of organisations attending the External Stakeholder Engagement event on 27 January 2015
- Appendix 5: Information on councils that had changed or were in the process of changing governance
- Appendix 6: Information on any change in governance contemplated by neighbouring councils
- Appendix 7: List of working groups, review groups, task and finish and other groups that councillors have been involved in over the past 12 months.

EXECUTIVE ADVISORY BOARDS

Terms of Reference

Each Executive Advisory Board will consider reports on matters relating to the functions of the Executive that fall within its remit. The remits of each Executive Advisory Board are shown below and are aligned to themes in the Corporate Plan; they will be reviewed and approved at the Council's Selection meeting each year. The Executive Advisory Boards will meet in public, be webcast, and be subject to Part C of the Council Procedure Rules, Public Speaking Procedure Rules and Access to Information Procedure Rules in Part 4 of the Constitution.

Membership:

- (a) Each Executive Advisory Board shall comprise 12 non-executive councillors and shall be chaired by a lead councillor appointed by the Council.
- (b) Proportionality rules will apply.
- (c) The non-Executive councillors of each Executive Advisory Board shall appoint from among themselves a vice-chairman.
- (d) Substitutes will be allowed in accordance with the rules and procedures of this Constitution, and in respect of each Executive Advisory Board, the Council may appoint up to seven substitute members for each political group.

Meetings:

- (a) Each Executive Advisory Board shall meet no later than 3 weeks before each scheduled meeting of the Executive.
- (b) The Chairman of each Executive Advisory Board will not be a voting member. The role of the Chairman is to listen to the other members of the Executive Advisory Board and to report their views to the Executive.
- (c) The quorum of each Executive Advisory Board will be 4.

Responsibilities:

Each Executive Advisory Board will have the following general responsibilities within its remit:

- (a) To consider and (where necessary) make recommendations on all Key (or other significant) Decisions, prior to the formal consideration of all such decisions by the Executive.
- (b) To assist and advise the Executive in the development of Policy Framework issues.
- (c) To undertake research and reviews for the purpose of advising the Executive on the delivery of Corporate Plan Priorities.
- (d) To advise the Executive at an early stage in respect of the formulation and development of policies and projects that will help to deliver Corporate Plan Priorities
- (e) To assist in the development of Executive Decisions
- (f) To assist and advise the Executive as regards budget preparation.
- (g) To develop and maintain a work programme ensuring that there is efficient use of its time

Powers:

Each Executive Advisory Board will have the power:

- (a) To require the Leader and/or lead councillors and officers to attend before it to answer questions
- (b) To question and gather evidence from any person (with their consent)
- (c) To co-opt expert individuals on a non-voting basis to assist their work.
- (d) To set up panels, working groups or breakout groups to look at specific issues relating to the delivery of the Corporate Plan (or other significant priorities) in order to inform decision making by the Executive. For the avoidance of doubt, the membership of such panels and groups shall be open to all councillors.

Remits:

The remits of the Executive Advisory Boards will be as follows:-

- (a) [The Borough, Economy, and Infrastructure] Executive Advisory Board. [To be aligned to themes in the new Corporate Plan]
- (b) [The Society, Environment, and Council Development] Executive Advisory Board [To be aligned to themes in the new Corporate Plan]

GUILDFORD BOROUGH COUNCIL**ARTICLE 8 – THE OVERVIEW AND SCRUTINY COMMITTEE****8.1 Terms of Reference**

- (a) The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by Sections 21 and 21A of the Local Government Act 2000 or regulations made under Section 32 of the Local Government Act 2000. This Committee is also the Council's designated crime and disorder Committee under Section 19 of the Police and Justice Act 2006.
- (b) The work of the Overview and Scrutiny Committee should focus on the Council's principles, practice, procedures and performance (rather than politics and personalities); the work will be informed by the following principles:
 - (i) Constructive "critical friend" challenge
 - (ii) Amplifies the voices and concerns of the Public
 - (iii) Led by independent people who take responsibility for their role; and
 - (iv) Drives improvement in public services
- (c) The provisions of this Constitution are subject always, and without prejudice, to Section 9F of the Local Government 2000
- (d) The general terms of reference of the Overview and Scrutiny Committee are set out below:
 - (i) to perform all overview and scrutiny functions on behalf of the Council;
 - (ii) to appoint such formal sub-committees and informal Task and Finish Groups as they consider appropriate to fulfil those overview and scrutiny functions;
 - (iii) to approve overview and scrutiny work programmes so as to ensure that the time of the Committee is effectively and efficiently utilised;
 - (iv) to undertake investigations into such matters relating to the Council's functions and powers as:
 - (a) may be referred by the Leader/Executive; or
 - (b) the Committee may consider appropriate; or
 - (c) have been referred to the Committee pursuant to the "call-in" procedure set out in the Overview and Scrutiny Procedure Rules in Part 4 of this Constitution;

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(In respect of (c) above, the Committee may review the decision or, if it so wishes, refer the matter to the full Council for review.)

- (v) to review and advise on all existing policies of the Council, including making recommendations for future options to the Leader/Executive;
- (vi) to review arrangements to secure continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- (vii) to monitor and review the Council's performance against relevant national and local performance indicators and adopted plans and strategies;
- (viii) to consider any matter affecting the area or its inhabitants;
- (ix) to discuss initiatives put forward for consideration by individual members of the Committee
- (x) to deal with any relevant councillor call-for-action in accordance with the protocol attached as Appendix 1 to the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution; and
- (xi) to consider petitions received under the adopted Petition Scheme that fall into the following categories:
 - petitions requiring a senior officer to give evidence to the Committee; and
 - a request from a petition organiser, who is not satisfied with the Council's response to a petition, for a review of the adequacy of the steps taken or proposed to be taken in response to the petition.

8.2 Specific Functions**(b) Policy Development and Review**

The Overview and Scrutiny Committee may:

- (i) assist the Council and the Leader/Executive in the development of the budget and policy framework by in-depth analysis of policy issues; and the Overview and Scrutiny Committee may obtain evidence from members of the public or expert witnesses to inform its response
- (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iii) question the Leader, lead councillors, Managing Director and Directors about their views on issues and proposals affecting the area; and
- (iv) liaise with, and scrutinise, other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; any such organisation that is working in partnership with the Council will be expected to have regard to the reports and recommendations of the Committee

PART 2 (ARTICLE 8) – THE OVERVIEW AND SCRUTINY COMMITTEE**(c) Scrutiny**

The Overview and Scrutiny Committee may:

- (i) review and scrutinise the performance of and the decisions made by the Leader, lead councillors individually or the Executive collectively and Council officers both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) (a) question the Leader, lead councillors, Managing Director and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time; in relation to particular decisions, initiatives or projects; or in relation to the portfolios of the Leader or of Lead Councillors (or any parts thereof)

(b) as part of this process, the Committee may facilitate the asking of questions submitted in advance by members of the public
- (iv) make recommendations as appropriate to the Leader/Executive and/or the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent) and require information from partner organisations.
- (vii) use innovative ways to scrutinise matters of concern such as select committees, public hearings, mystery shopping and workshops; the issue being investigated should be matched to the most appropriate process.

(d) Finance

- (i) The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.
- (ii) The Committee may request that a budget be made available to it for the purposes of research, the costs of expert witnesses, site visits, non-meeting based activities and matters similar thereto.

(e) Annual Report

The Overview and Scrutiny Committee must report annually to the full Council on its work undertaken during the year, future work programmes and amended working methods if appropriate.

8.3 Proceedings of the Overview and Scrutiny Committee

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

GUILDFORD BOROUGH COUNCIL

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. **Arrangements for overview and scrutiny committees**

The Council will have one overview and scrutiny committee (OSC) as set out in Article 8, and will appoint to it as Council considers appropriate on an annual basis. The committee may appoint formal sub-committees and informal task and finish groups. The OSC will comprise 12 councillors.

2. **Who may sit on the OSCs?**

(a) All councillors, except members of the Executive, may be members of the OSC. However, no councillor may be involved in scrutinising a decision in which he or she has been directly involved (unless that involvement was only as a member of an Executive Advisory Board).

(b) There shall be no limit upon the number of substitute members.

3. **Co-optees**

The OSC, or its sub-committee, or task and finish group shall be entitled to appoint non-voting co-optees. Co-optees shall normally be drawn from groups, organisations, or service users with an interest in services within the OSC's remit. Co-optees may be appointed as standing co-optees, or special interest co-optees appointed to assist with scrutiny of a particular matter.

4. **Meetings of the OSC**

There shall normally be at least seven ordinary meetings of the OSC in each year. In addition, extraordinary meetings (and meetings to consider call-ins pursuant to Procedure Rule 17 below) may be called if appropriate. An OSC meeting may be called by the chairman, by any five members of the committee, or by the Director of Corporate Services if he or she considers it necessary or appropriate.

5. **Quorum**

The quorum for the OSC shall be four voting members of the committee.

6. **Who chairs OSC meetings?**

(a) The chairman of the OSC will be drawn from amongst the councillors serving on the committee. The chairman of each overview and scrutiny sub-committee or task and finish group will be drawn from amongst the councillors serving on the sub-committee or task and finish group concerned. Subject to this requirement, the committee or any of its sub-committees may appoint such a person as it considers appropriate as chairman.

(b) A vice-chairman shall also be appointed who shall not be from the same political group as the chairman.

7. **Work programme**

The OSC will be responsible for setting its own work programme in accordance with the following procedure:

The chairmen and vice-chairmen of the OSC and the Executive Advisory Boards and relevant officers shall normally meet at least bi-monthly to exchange, discuss and agree proposed rolling 12-18 month work programmes for submission periodically to the OSC for approval. The proposed work programme for the OSC will be determined in accordance with the OSC work programme development and topic selection flowchart, attached as Appendix 2 to these procedure rules.

PART 4 - OVERVIEW AND SCRUTINY PROCEDURE RULES

The chairman and vice-chairman of the OSC will ensure that all councillors are able to submit requests for alterations to the work programme for consideration at each of these work programme meetings.

8. **Task and finish groups**

The work programme meetings described in Procedure Rule 7 above will consider and propose the establishment, membership, terms of reference, and reporting timescale of task and finish groups to undertake specific areas of work. Such proposals shall be submitted to the OSC for approval. The number of task and finish groups must be commensurate with available resources.

Task and finish groups will be expected to operate and report their findings in accordance with the flowchart attached as Appendix 4 to these rules.

Any non-executive councillor may be appointed to serve on task and finish groups and membership will be open to non-councillors, including representatives of external bodies. Political balance requirements will not apply to task and finish groups.

9. **Entitlement to place items, including a Councillor Call for Action, on an Agenda**

In normal circumstances, requests to include an item on the OSC agenda will be forwarded to the chairman and vice-chairman of the committee for consideration in accordance with the procedure set out in Procedure Rule 7 above.

However, any member of the OSC or its sub-committees shall be entitled to give written notice to the Director of Corporate Services that he or she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. Any such notification shall be accompanied by:

- (a) reasons for the proposed item, including justification for the item not being progressed through Procedure Rule 7; and
- (b) the outcome that the councillor would wish to see in response to the OSC's or sub-committee's consideration of the matter.

On receipt of such a request, the Director of Corporate Services will ensure that it is included on the next available agenda. The committee shall consider the request in accordance with the OSC work programme development and topic selection flowchart attached as Appendix 2 to these rules.

Notwithstanding the above provisions, any councillor may refer a councillor call for action (CCfA) to the OSC for consideration in accordance with the protocol attached as Appendix 1 to these rules.

The OSC shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Leader/Executive to review particular areas of Council activity. Where the committee does so, it shall report its findings and any recommendations back to the Leader/Executive and/or the Council.

10. **Policy review and development**

- (a) The role of the OSCs in relation to the development of the Council's budget and policy framework is detailed within the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.

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- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the OSC or its sub-committees may make proposals to the Leader/Executive for developments in so far as they relate to matters within their terms of reference.
- (c) The OSC may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. The committee may go on site visits, conduct public surveys, hold public meetings, commission research, and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address a meeting on any matter under consideration and may pay to any advisers, assessors, and witnesses a reasonable fee and expenses for doing so.

11 **Scrutiny of crime and disorder matters**

The scrutiny of crime and disorder matters shall be undertaken in accordance with the protocol set out in Appendix 3 to these rules.

12. **Reports from the OSC**

- (a) Once it has formed proposals, the OSC will submit a formal report, including recommendations for consideration by the Leader/Executive (if the proposals are consistent with the existing budget and policy framework), or to the Council as appropriate (for example, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the OSC cannot agree a single final report to the Council or Leader/Executive as appropriate, then one minority report may be prepared and submitted for consideration with the majority report.
- (c) The Council or Leader/Executive shall consider and respond within two months to the report and/or recommendations of the OSC, indicating what (if any) action is proposed.

13. **Making sure that OSC reports are considered by the Leader/Executive**

- (a) Once the OSC has completed its deliberations on any matter, the Director of Corporate Services will allocate the report including recommendations to either or both the Leader/Executive and the Council for consideration, according to whether the contents would have implications for the Council's budget and policy framework. If the Director of Corporate Services refers the matter to the Council, he or she will also serve a copy on the Leader with notice that the matter is to be referred to the Council. The Leader/Executive will normally have four weeks in which to respond to the OSC report and the Council shall not consider it within that period. When the Council does meet to consider any referral from the OSC on a matter which would impact on the budget and policy framework, it shall also consider the response of the Leader/Executive to the committee's proposals.
- (b) The OSC will in any event have access to the Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the OSC following consideration of possible policy/service developments, the committee will be able to respond to key decision consultations.

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14. **Rights of OSC members to documents**

- (a) In addition to their rights as councillors, members of the OSC have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Leader/ Executive and the OSC as appropriate.

15. **Councillors and officers giving account**

- (a) The OSC may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require the Leader, any lead councillor, the Head of Paid Service, Directors, and heads of service to attend before it to answer questions. In addition, relevant councillors can be required to answer questions relating to functions exercised under section 236 of the Local Government and Public Involvement in Health Act 2007. It is the duty of those persons to attend if so required.
- (b) Where any councillor or officer is required to attend an OSC meeting, the Director of Corporate Services shall inform the councillor or officer in writing normally giving at least ten working days' notice. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the councillor or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the councillor or officer is unable to attend on the required date, the committee shall in consultation with the councillor or officer arrange an alternative date for attendance.

16. **Attendance by others**

The OSC may invite people other than those people referred to in Procedure Rule 15 above to address them, discuss issues of local concern and/or answer questions.

17. **Call-in**

- (a) When a decision is made by the Leader/Executive or an individual lead councillor or a key decision is made by an officer with delegated authority from the Leader/Executive, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally by 5.00 pm on the day after the meeting. All councillors will be sent copies of the records of all such decisions within the same timescale by the Director of Corporate Services.
- (b) That notice will bear the date on which it is published and, subject to the urgency provisions in sub-paragraph (h) below, will specify that the decision will come into force, and may then be implemented:
 - on the expiry of five working days after the day of the meeting in the case of decisions taken by the Executive collectively; or

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- on the expiry of five working days after the day of publication of the decision in the case of decisions taken by the Leader, individual lead councillors or key decisions taken by an officer with delegated authority from the Leader/ Executive

unless it is called-in.

- (c) During the call-in period referred to in sub-paragraph (b) above, the chairman of the OSC or any five members of the Council may request in writing to the Director of Corporate Services that a decision is called-in for consideration by the OSC. The reasoning for calling-in a decision shall accompany any such request and must meet one of the following criteria:
- (i) that there was insufficient, misleading, or inaccurate information available to the decision-maker;
 - (ii) that all the relevant facts had not been taken into account and/or properly assessed;
 - (iii) that the decision is contrary to the budget and policy framework and is not covered by urgency provisions; or
 - (iv) that the decision is not in accordance with the decision-making principles set out in the Constitution.
- (d) On receipt of a call-in request, the Director of Corporate Services, or his nominated deputy, in consultation with the chairman of the OSC will decide whether it is valid and will notify the councillors concerned accordingly.
- (e) In the case of a valid call-in, the Director of Corporate Services shall refer the decision to a special Call-in Meeting of the OSC, which shall be held within 21 days of the decision on validity referred to in sub-paragraph (d) above.
- (f) The OSC may review the decision itself or refer the matter to the Council for review. If the OSC or Council, as the case may be, endorses the proposed decision, it comes into immediate force and effect. If the OSC or the Council do not support the proposed decision, the matter shall be referred back to the next appropriate meeting of the Leader/ Executive or to the individual decision-taker for decision with such comment and advice as the OSC or the Council deems appropriate.
- (g) Once a decision has been referred back to the Leader/Executive or individual decision-taker by the OSC or the Council on the basis described above, it shall not be subject to further call-in. The decision shall then be final unless it is contrary to the policy framework or contrary to or not wholly consistent with the budget.
- (h) Any matter designated by the Director of Corporate Services to be urgent shall not, if the Leader/Executive or individual decision-taker and the chairman of the OSC agree, be subject to the call-in procedure, but shall be determined by the Leader/ Executive, lead councillor or officer immediately. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (i) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to the Council with proposals for review if necessary.

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18. The party whip

The "party whip" is defined as:

"Any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee or the application or threat to apply any sanction by the group in respect of that councillor should he or she speak or vote in any particular manner."

The Council considers whipping as incompatible with overview and scrutiny. Therefore, when considering any matter in respect of which a member of the OSC is subject to a party whip, the councillor must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

19. Procedure at OSC meetings

(a) The OSC shall consider the following business:

- (i) disclosures of interest, including whipping declarations;
- (ii) consideration of the minutes of the previous meeting;
- (iii) consideration of any matter referred to the committee through the "call-in" procedure;
- (iv) responses of the Leader/Executive to reports of the OSC; and
- (v) the business otherwise set out on the agenda for the meeting.

(b) Where the OSC conducts investigations (for example, with a view to policy development), the committee may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees and to contribute and speak;
- (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
- (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

(c) Following any investigation or review, the committee shall prepare a report including recommendations for submission to the Leader/Executive and Council as appropriate and shall make these public.

A note on petitions for a referendum on governance change

A formal change of the Council's current governance model, that is to say, to a committee system or to a directly elected mayor and cabinet executive system,^{*} is achievable through two routes: either, by a Council resolution alone or by a Council resolution mandated by a referendum. The result of a governance change referendum is binding on a Council.

If a formal change of the Council's governance model is made by a Council resolution alone then the change will be locked in for five years. However, if the change in governance is implemented because of a referendum then the change is effectively locked-in for a ten-year period. Councils which change their formal governance arrangements as a result of a referendum are required to hold a further referendum to make a further formal change.

The cost of a Borough-wide referendum is in the region of £110,000. Of course, if formal governance change occurs as a result of a referendum then there will be cost implications for future formal governance change – as suggested above, subsequent formal governance change would require a further referendum to be held.

If a referendum is held as a result of a petition, then there cannot be another such petition for (effectively) 10 years.

The review of the first Governance Review task and finish group was carried out against the backdrop of a petition campaign for a referendum on whether the Council should operate under a committee system. To date this petition has not been submitted to the Council.

The work of the Review of Governance Arrangements task and finish group was undertaken in the context of the Council receiving in May 2015 a petition calling for change from the current leader and executive decision-making system to a directly elected mayor and cabinet executive model. While this petition was found to be short of the required number of signatories,[#] signatures on a petition remain valid for 12 months and in that period may be amalgamated with any subsequent petitions seeking the same governance change referendum.

^{*} The Local Government Act 2000 (as amended by the Localism Act 2011) provides Councils with a choice of governance options: executive arrangements (leader and executive or directly elected mayor and cabinet executive); a committee system; or "prescribed arrangements" (whereby councils propose their own system of governance arrangements for approval of the Secretary of State).

[#] To be valid a petition for a governance change referendum requires 5 per cent of the local government electors for the Council's area to sign it. Although purporting to contain the required number of signatories (5,012), the actual number validated for the directly elected mayor petition submitted in May 2015 was 3,570.

The proposed scrutiny officer's role

We envisage that the main duties and responsibilities of a dedicated scrutiny officer would be:

- To promote and support the Council's O&S function so that it operates as an effective vehicle for service improvement and citizen engagement.
- To lead and co-ordinate the development and delivery of the O&S Work Programme, including policy review and development and post-decision scrutiny, ensuring that the views of councillors, partners, the public and external organisations are represented effectively in the process.
- To work with the O&S chairman, vice-chairman and councillors to scope and research issues selected for inquiry.
- To provide independent and impartial advice and guidance to councillors and officers about O&S procedures, processes and methodologies.
- To advise upon and commission external expert advice where appropriate.
- To arrange and support O&S related events.
- To assist with the development of partnership working and collaborative scrutiny with other local authorities and public bodies, and the scrutiny of external bodies and partner organisations.
- To ensure that outcomes from O&S are well-researched, well-written, clear and presented in the most effective way possible.
- To monitor implementation of accepted recommendations.
- To advise on and participate in O&S related training and development for councillors and officers.