

BACKGROUND PAPERS
Governance Task Group (Constitution) Report
Executive: 18 March 2018

Attached:

Minutes/Notes from meetings of the Governance Task Group held on:

- 6 January 2019
- 24 January 2019;
- 5 February 2019;
- 13 February 2019
- 21 February 2019

Governance Task Group

Notes of Meeting held at 6.18pm on 16 January 2019 in the Executive Meeting Room, Town Hall, Reigate

Present: Councillors Durrant (Chairman), Archer, Ellacott, Essex, Harrison, Paul and Schofield
John Jory, Chief Executive
John Jones, Interim Head of Legal and Governance
Chris Phelan, Democratic Services Manager
Christian Scade, Deputy Democratic Services Manager

1. Apologies

Councillors Foreman and Lynch. Councillor Durrant apologised for his late arrival.

2. Chairman's welcome

Councillor Durrant opened the meeting by referring to the Leader of the Council's request to establish the Governance Task Group with the primary objective of reviewing the operation of a range of Constitutional matters to make the authority's governance most effective.

3. Purpose of the meeting

It was noted that this meeting of the Group was primarily to agree the working arrangements and scope/priorities of areas to review. Once the scope had been concluded Officers would provide research/evidence and draft options for consideration.

4. Ground rules

The Group agreed the ground rules for its operation as set out in the agenda, noting the following points:

- If a Member needed to depart from the 'collective responsibility' objective then this should be done in an open and transparent way at Task Group;
- That projected start and finish times be added to each Agenda for the Group's meetings

5. Terms of Reference

The Group received a copy of their proposed Terms of Reference and made the following observations in relation to the scope of activities to be undertaken:

- Establishing the group as a standing Task Group to provide an environment for the continued review of governance matters by the Council; and
- Development of a Work programme, taking account of matters that are time critical (eg reporting to Annual Council).

In reviewing the scope of activities the Group identified the following areas of work for further consideration within its work programme:

- (i) Review of the **size of Committees** (with an options appraisal; key principles analysis and impact on the terms of reference for each Committee);
- (ii) Review of the **Members Code of Conduct**; Member/Officer Protocol and the Officer Code of Conduct;
- (iii) Operational review of the **Standards Committee**;
- (iv) Increased Member and Public **engagement opportunities** at Council and other Committee meetings;
- (v) Review of the **Key Decision** definitions/thresholds (with benchmarked comparator information) to understand if they remain correct for the operation of Council business (taking account of any implications on contract matters);
- (vi) Review of the terms of reference of the **Employment Committee** with a focus on the process for the appointment senior officers;
- (vii) Review of the **Financial and Contract Procedure Rules** and how the authority's financial controls are managed e.g. operation of delegations;
- (viii) **Scheme of Delegation** review including whether the right balance had been provided for Member involvement;
- (ix) Implementation of the outcome of the **Commercial Governance** Review Group's findings;
- (x) Clarification of the **purpose of other Committees** or Member Groups that are in operation and that the information be provided in an accessible area;
- (xi) Reviewing the process for **appointments to Outside Bodies** including the relevance of Ward representatives and skill sets most relevant to the organisation concerned;
- (xii) Review of the **governance structure options** such as the merits of the Strong Leader model and those operated under the Committee system of governance;
- (xiii) Review of the **Overview and Scrutiny Committee's** operating arrangements;
- (xiv) Review the status of the **Group Leaders' Meeting** in relation to the Constitutional framework;
- (xv) Review the election process for the **Mayor and Deputy Mayor**;
- (xvi) Reviewing the **accessibility of the Constitution** to be more user friendly;
- (xvii) Review of the **Youth Council's relationship** with the Council's operations;
- (xviii) Review the purpose of the **Area Forums** associated with the Planning Protocol; and
- (xix) Review of **Member Role Profiles**.

The Group recognised that it had three categories of priorities to place each area of work in a future work programme. Following discussion these categories could be defined as:

- **Category 1:** Immediate priority activity (defined as activity needing implementation for the 2019/20 Municipal Year or Quick Wins);
- **Category 2:** priority work to be scheduled (defined as important but not required for implementation for the start of the 2019/20 Municipal Year); and
- **Category 3:** Longer term priority areas (interesting areas for review in the future).

The Group agreed that the following be reviewed in Category 1:

- Committee size (including receiving evidence from the Chairman of the Planning Committee and the Head of Planning);
- Commercial Governance outcomes;
- Key Decisions;
- Public and Member engagement opportunities; and
- Definition of Member Groups.

The Group agreed that it would consider the following at its next meeting:

- (i) Category 1 review areas;
- (ii) Development of a Work Programme with an analysis of the priority areas into appropriate Categories (with an indicative timetable for their progression by the Group);
- (iii) Deliverables including the process for future review of governance matters by members;
- (iv) Initial discussions on the priority areas.

In addition the Group made the following operational decisions:

- There would be consultation with all Members on proposals in advance of their consideration by the Executive.
- The notes of the Group's meetings would be provided to all Members.
- To ensure full cross party engagement Councillor Mrs Tarrant be invited to future meetings of the Group.

6. Next meeting

It was noted that the next meeting of the Group would be held at 6pm on 24 January 2019.

The meeting finished at 7.37pm

Governance Task Group

Notes of Meeting held at 6.00pm on 24 January 2019 in the Executive Meeting Room, Town Hall, Reigate

Present: Councillors Durrant (Chairman), Archer, Ellacott, Essex, Foreman, Harrison, Paul and Schofield
John Jones, Interim Head of Legal and Governance
Chris Phelan, Democratic Services Manager
Christian Scade, Deputy Democratic Services Manager

1. Apologies

Councillor Lynch and Non Task Group Member Councillor Mrs Tarrant.

2. Minutes

The Minutes of the last meeting held on 16 January 2019 were agreed as an accurate record with the following notes:

- That the reference to the Group's Category 1 work be rephrased to refer to it as being areas of work to review first; and
- Surrey County Council Local Committee arrangements be added into the Group's work programme going forward (should it be necessary).

3. Indicative Work Programme

The Group received an initial draft indicative work programme, as the basis for discussion, following the Task Group's identification of possible work streams at its last meeting. Each was separated into three category areas of priority for consideration by the Task Group.

The Task Group agreed the following changes to the Work Programme:

- **Standards Committee review** – that the scope of this review be agreed by the Chairman of the Standards Committee rather than the Group. The findings of that review be provided to the Task Group and reported by exception to the Group if required;
- **Employment Committee** – to be added to Category 1;
- **Area Forums** – the work area to clarify the governance status rather than the remit of the Forum;
- **Scheme of Delegation** – that a parallel review be undertaken by Portfolio Holders and Directors to establish if the right balance of Member involvement had been achieved in the Scheme and for the outcome to be reported to the Task Group;
- **Outside Bodies** – the Chairman agreed to progress the scope and timing of a review of the process for making appointments to Outside Bodies with Councillor Essex outside of the meeting. This would allow the issues and options to be considered by the Task Group. It was noted that the

development of a protocol to manage the appointment process was a possible option for progressing this area of work;

- **Engagement opportunities** – It was agreed that the scope of this review be changed to place the process for considering Motions and Member questions as Category 1 in the work programme (updating the research findings to include whether the authority being compared with operated the Strong Leader or Committee model of governance). Public questions and other engagement options be reviewed as part of the Group's work in the next municipal year;
- **Categories 2 and 3** – It was agreed that review work in the indicative programme for Categories 2 and 3 be combined into a single programme of activity so that their priority can be revisited on completion of the Category 1 work being undertaken by Group.

4. Key Decisions

The Group reviewed the comparative research provided on how other local authorities defined their key decisions. It was noted that a range of definitions were in use and that the definition utilised by Reigate and Banstead remained consistent with most Surrey authorities and some of the statistical neighbouring authorities.

It was noted that adjustments had been made to governance operational arrangements for managing the business of the authority through its publishing requirements for business being transacted by the Executive. As a result a degree of settlement had been achieved to manage the business.

The Group heard from the Monitoring Officer on the key aspects of review that he undertakes with all matters scheduled for consideration by the Executive. This included whether the authority had the legal powers to do what was being proposed and whether consultation requirements had been complied with. These were noted as being important areas that could result in the authority's decision making processes being challenged if they were not complied with. Managing the process for Key Decisions was part of this process.

The Group concluded that, from the information it had reviewed to date, that there was no significant need to change the definition of a Key Decision and that it should remain unchanged. However it noted that this could be reviewed in the future if there was an identified need (such as the outcome of the Scheme of Delegation review).

5. Size of Committees

The Group received comparative data on the size of other local authority Committee structures.

Planning Committee

The Group had an initial discussion on the 'pros and cons' of different operating models for the Planning Committee. Some of the points identified were:

- To move away from the perceived linkage between the number of wards and the membership of the Committee;

- The strategic nature of the decisions made by the Committee and that decisions should not be perceived to be Ward based;
- Reducing the current size to 11, 13 or 15 and maintaining an 'odd' number of Members to allow for the deadlock to be broken if there was an equality of voting;
- Ensuring that the model adopted was not open to legal challenge; that the interests of the authority be protected to ensure that the regulatory nature of its work was primary and that it doesn't become a 'political' Committee;
- Allowing for the range of different views to be expressed from a broader range of representatives to maintain diversity;
- Learning from the processes used at the Licensing and Regulatory Committee that does not allow Ward Members to determine applications within their ward;
- Reviewing the rationale for change to put in place the model that would make the best decisions;
- Reviewing the Procedure Rules to provide for Ward Members being the first speaker on matters before the Committee (and whether to not permit Ward Members to consider applications in their ward);
- Noting that the Boundary Review submission referred to the Committee comprising of 1 Member per ward;
- The workload requirements on Members if a smaller Committee size was implemented;
- Changing the Procedure rule to allow for substitute Members of the Committee to replace full Members of the Committee for the consideration of matters being considered in their Ward; and
- Whether Planning Sub Committees should be established.

To assist the Group with progressing this work it requested the following actions:

- An analysis of different composition models applying the political proportionality rules be provided; and
- Inviting Councillor Parnall and Andrew Benson to the next meeting of the Task Group for consideration of this matter.

Licensing and Regulatory Committee

The Task Group did not review the size of this Committee in any detail at this meeting but referenced that consideration of the number of Sub Committee Chairman be reviewed.

6. Public and Member Engagement Opportunities

It was noted under the work programme that the Motions and Member Questions be prioritised over the Public engagement opportunities. To support an easier analysis of this work the research provided would be presented to the Task Group in A3 landscape format. Additionally the operation of the SCC Local Committee would be added to the comparative data in the research.

7. Commercial Governance Outcomes

The Task Group noted that the findings of the Commercial Governance Task Group would be presented to the Overview and Scrutiny Committee and the Executive and that this Task Group would be informed of the outcomes.

8. Definition of Member Groups

It was agreed to defer consideration of this item to the next meeting of the Task Group.

9. Next steps and future meetings

It was noted that the next meeting of the Group would be held at 6pm on 31 January 2019 when it would consider:

- Planning and other Committee size (including options on the political proportionality);
- Member Motions
- Member Questions
- Commercial Governance review
- Timetable of future meetings

The meeting finished at 7.26pm

Governance Task Group

Notes of Meeting held at 6.00pm on 5 February 2019 in the Front Committee Room, Town Hall, Reigate

Present: Councillors Durrant (Chairman), Ellacott, Essex, Harrison and Lynch
Councillor Stead (Chairman, Overview and Scrutiny Committee)
John Jory, Chief Executive
Andrew Benson, Head of Planning
Dianne Mitchell, Licensing Manager
Chris Phelan, Democratic Services Manager
Christian Scade, Deputy Democratic Services Manager

1. Apologies

Councillors Archer, Foreman, Paul, Schofield and Non Task Group Members
Councillors Parnall and Mrs Tarrant.

Caroline Waterworth, Head of Legal and Governance.

2. Minutes

Councillor Harrison indicated disagreement with the accuracy of the Planning Committee summary points and noted that the matter was to be further discussed at this meeting. In agreeing the notes of the last meeting held on 24 January 2019 the Group agreed to note Councillor Harrison's observation.

3. Committee Sizes

The Task Group received a breakdown of the proportionality on line Committees and an extract from the Constitution on the responsibility for functions to support the review of Committee sizes.

A Planning Committee

The Group received oral evidence from Andrew Benson, Head of Planning, who highlighted operational difficulties experienced with the Planning Committee and the benefits that might be achieved by reducing its size. The points raised are summarised below:

Accountability

- Increased responsibility for:
 - actions, comments and votes rather than safety in numbers
 - better attendance at training and reduced need for numerous mandatory training sessions
 - better attendance at site visits and improvements to the reputation of the Committee against the allegation of not 'taking it seriously'
- Increased freedom to give individual views and those of their residents without risk of pre-determination or bias
- Cutting the perceived tie between wards and Planning Committee would improve objectivity, reduce unconscious bias and any parochial mentality.

Professionalism

- Increased knowledge about their subject
- Training better tailored to individual needs or requests
- Increased ownership of Council policies rather than publicly criticise them
- explanations of planning 'basics' could be reduced
- improved focus on policy and material considerations when planning decisions were made

Efficiency

- better familiarity with:
 - planning protocol
 - mechanics of requesting items to Committee and
 - reasons for refusal
- Reduce:
 - Members commenting on every application thus improving the focus of debate and avoiding consequential suppression of others' views
 - Requests to defer items rather than make a decision on them.

Size options

- That the size of the Committee in operation by Croydon, Sutton and Southwark London Borough Councils were 10, 10 and 8 respectively and that these represented good examples of efficient professional Planning Committees.

Concluding comments

In concluding Mr Benson suggested that benefits of change would result in:

- Better decision making
- Targeted and focussed debate on implementation of the Council's policies
- Fewer overturns against Officer advice
- Less delay
- Fewer appeals
- Fewer awards of costs at appeal
- Fewer complaints
- Reduced Officer workload
- Shorter meetings
- Meetings appearing more professional
- Reputational improvement
- Better attendance
- Less inconsistency
- More objective and less parochial

Councillor Stead expressed concern that the Officer presentation was too one sided and did not reflect an understanding of the role of a Councillor on the Committee. This was refuted by the Chief Executive.

Members made the following points in response to the presentation:

- Councillors were representing their residents' concerns at the Committee;
- Ward Members have the greatest local knowledge in relation to matters coming before the Committee;
- The benefits of providing a ward based system for representation on the Committee;
- Members of the Committee retain an open mind whilst other Members might have a bias of view on an application under consideration;
- Disagreement that the view of the Ward Member always prevailed at meetings;
- Residents expectations of their Ward representative on the Committee is that that they can speak and vote on their behalf when they want to rather than being restricted to join in the debate;
- Training
 - was regarded a matter for the Group Leaders to ensure good attendance;
 - whether changing the format to a more formal one could increase the level of importance attributed;
 - Chairmanship training be provided to help develop the skill of managing the meetings;
- Size
 - Questioning that a change of size would make the Committee more efficient or a solution for the issues that had been suggested
 - There were mixed views on whether the perceived ward based principle for the size of the Committee was the most appropriate (or indeed whether that was actually the case now). Some Members felt strongly that this was important and others challenged that this was the case
 - The submission to the Boundary Committee was sited as an example of support for selecting the Committee size of 15.
 - the value of local knowledge being retained on the Committee;
 - That it was not necessary to have an 'odd' number of members on the Committee, particularly as there had been no recent issues of tied voting taking place on matters;
 - Full attendance at meetings was not always possible
 - the convention of the Chairman remaining impartial on voting had not always been followed
 - Challenging the suggested benefit from reducing the Committee size in relation to fulfilling its quasi-judicial responsibilities
 - Challenging the value of a smaller Committee as it would continue to have Ward representation that could result in problems arising for example it could be unduly influenced by a dominant Member;
 - A size higher than 15 would be consistent with the comparative evidence provided for other Surrey authorities;
- Support for allowing Visiting Members the dedicated provision to speak at meetings

- Noting the operational practice in some wards that ‘frees up’ a member to not participate in discussions with residents allowing them to contribute at Committee without constraint;
- The view was expressed that Ward Members should be invited to Site Visits (as operated by Surrey County Council) to balance the discussion and local knowledge, which could be achieved without pre determining the application;
- That Executive Members had an increased possibility of a conflict of interest in considering matters before the Committee and that it would be better if the convention (of not appointing Executive Members) be confirmed in the Constitution.

The Group were informed that some of the roles of the Member on the Committee were:

- To remain open minded and to consider applications without bias or predetermination;
- To not allow yourself to be lobbied on matters being considered by the Committee to ensure your impartiality
- Noting that it was not illegal to have a Ward Member model as representatives on the Committee

The Group received a Key Principles document that sought the Task Group’s response to the issues that had been identified to date and how best to associate those principles to the size of the Committee. It was noted that the purpose of the document was to help the Group define the rationale for their upcoming recommendations.

The Task Group did not complete its conclusions on the Planning Committee awaiting the opportunity of hearing from the Chairman and other Members of the Task Group on the points raised to date.

B Overview and Scrutiny Committee

The Task Group heard from the Chairman of the Committee, Councillor Stead, that the existing size of the Committee operating at 15 was working well and allowed for the appropriate level of challenge to be provided.

It was noted that 15 was not inconsistent with other such Committees across Surrey and that generally its size had not been an issue to date.

It was noted that changing the size to a smaller number was not likely to affect the quality of discussion at the Committee and that the application of the proportionality rules for a model of 13 maintained the same level of opposition members on the Committee, reducing the number of Members from the Administration by 2.

The Task Group agreed its interim conclusions that, on balance the Committee should continue at 15.

C Licensing and Regulatory Committee

The Task Group heard from the Chairman of the Committee, Councillor Lynch and Mrs Mitchell, Licensing Manager.

It was noted that the Committee operated a different approach with an effective structure of Sub Committees that considered the majority of its work. This had resulted in the main Committee meeting less frequently.

It was noted that changing the Committee size to 12 would not be detrimental provided that the operational arrangement of 5 Sub Committee Chairmen was maintained to ensure that there was flexibility when organising hearings at short notice.

It was also noted that as a result of infrequent meetings that Members might require additional training to support them in undertaking their role.

In conclusion the Task Group agreed its interim decision that the Committee should reduce to 12 (from 15) on the basis that the principle of 5 Sub Committee Chairmen would continue and that increased training opportunities would be provided.

D Employment and Standards Committees

The Task Group agreed that the Employment and Standards Committees would continue to retain a membership of 5.

4. Next steps and future meetings

It was noted that the remaining business would roll forward to the next meeting when it was hoped that Councillor Parnall would be able to attend to provide evidence in relation to the size of the Planning Committee.

The dates of the next meetings were agreed as:

- 13 February 2019
- 21 February 2019
- 5 March 2019

The Group noted that it would have to conclude on its draft report by 28 February for it to reach the Executive on 18 March 2019.

The meeting finished at 8.00pm

Governance Task Group

Notes of Meeting held at 6.00pm on 13 February 2019 in the Executive Meeting Room, Town Hall, Reigate

- Present:** Councillors J.E. Durrant (Chairman), J.M. Ellacott, N.D. Harrison, J. Paul and T. Schofield.
- Also Present:** Councillors M.A. Brunt* (Leader of the Council), S. Parnall (Chairman, Planning Committee) and B.A. Stead (Chairman, Overview and Scrutiny Committee)
- Officers:** John Jory, Chief Executive
Andrew Benson, Head of Planning
Caroline Waterworth, Head of Legal and Governance (Monitoring Officer)
Chris Phelan, Democratic Services Manager
Christian Scade, Deputy Democratic Services Manger

**Attended from 7.00pm*

1. Apologies

Councillors T. Archer, J.C.S. Essex, K. Foreman and A.M. Lynch.

2. Minutes

In agreeing the notes of the last meeting held on 5 February 2019 the Group considered a number of points that had been raised in relation to Committee Sizes, including key principles relating to the size of the Planning Committee.

It was noted that this further discussion, covering a range of issues, would be used to develop draft recommendations for the next meeting.

3. Councillor S. Parnall, Chairman, Planning Committee

The Task Group heard from Councillor S. Parnall who highlighted a range of matters based on his experience as Planning Committee Chairman and attendance at a recent LGA Planning Seminar.

During the discussion a wide range of issues were discussed and it was noted that the input from Councillor S. Parnall and the conclusions from the Task Group would be included in the draft recommendations report for the next meeting.

4. Committee Sizes Review – Conclusions

Following the evidence received to date, including the discussion under agenda items 2 and 3, it was agreed draft recommendations on committee sizes should be prepared for further consideration at the next meeting.

5. Employment Committee

The Task Group heard from Councillor M.A. Brunt, Leader of the Council, who highlighted a number of issues for consideration by the Group, relating to:

- The Terms of Reference for the Employment Committee.
- Officer Employment Rules, including responsibility for functions
- The importance of Member Learning and Development on related recruitment matters.

The Group also noted the information set out in Procedure Rule 9 – Officer Employment.

During the discussion a wide range of issues were discussed and it was noted that the input from Councillor M.A. Brunt, and the conclusions from the Task Group, would be included in the draft recommendations report for the next meeting.

6. Initial Discussion on Motions and Questions by Members

In view of the tight schedule for completing priority work for the Executive in March and Council in April the Task Group agreed that this review area should be picked up as part of the next stage of work.

7. Commercial Governance Review

Councillor J.M. Ellacott, Chairman of the Commercial Governance Task Group, provided an update on progress. It was noted that the final Commercial Governance report would be considered by OSC on 14 February 2019 and the Executive on 18 March 2019. It was noted that in the event that the Task Group's conclusions were adopted by the Executive a further report would be required to the Executive to request the detailed implementation of their recommendations.

8. Definition of Member Groups

In view of the tight schedule for completing priority work for the Executive in March and Council in April the Task Group agreed that this area of work should be picked up, outside of the Task Group, via an officer briefing note with information published on e-members once completed.

9. Work Programme

Subject to the comments above (under agenda items 6, 7, 8) and the inclusion of “webcasting options” as part of the “Increased Public engagement opportunities” review the Work Programme was agreed, noting that this would include the need for any financial implications for the necessary investment. It was also suggested that the review of Role Profiles should include consideration of the roles and responsibilities for each Line Committee Chair.

During the discussion, the Leader highlighted that he was supportive of the Task Group's work and stated he would support establishing a standing body for the continued review of governance matters by the Council.

In response to a Member enquiry the Chief Executive indicated that a mechanism should be put in place that allowed for the Monitoring Officer to update the Constitution with administrative or consequential amendments arising from the key principles taken by Council.

10. Next Steps

The information set out on the front sheet of the agenda was noted and it was highlighted that draft recommendations, based on the evidence received, would be circulated ahead of the next meeting.

The meeting finished at 7.53pm

Governance Task Group

Notes of Meeting held at 5.30pm on 21 February 2019 in the Executive Meeting Room, Town Hall, Reigate

Present: Councillors J.E. Durrant (Chair), J.C.S. Essex, K. Foreman, N.D. Harrison, A.M. Lynch, J. Paul and T. Schofield.

Also Present: Councillors B.A. Stead (Chair, Overview and Scrutiny Committee) and M.S. Blacker (Vice-Chair, Planning Committee)

Officers: John Jory, Chief Executive
Chris Phelan, Democratic Services Manager
Christian Scade, Deputy Democratic Services Manger

1. Apologies

Councillors T. Archer and J.M. Ellacott

Officers Caroline Waterworth, Head of Legal and Governance
(Monitoring Officer)

2. Notes

The notes of the Governance Task Group meeting held on 13 February 2019 were approved as a correct record. It was noted that matters discussed on the 5th and 13th February 2019, in relation to the Planning Committee, would be highlighted in the Task Group's draft report which would be considered at the next meeting.

3. Draft Recommendations

The Group considered, and provided feedback on, draft recommendations in relation to: Key Decisions; Employment Committee (Terms of Reference and Procedure Rule 9); Committee Sizes; Keeping the Constitution / Related Governance Matters under Review; and Administrative Changes and Consequential Amendments.

During the discussion a wide range of issues were discussed and it was explained that the Task Group's comments and feedback would be included in the draft report for the next meeting. It was highlighted that there was consensus on the majority of recommendations although it was noted that the Group still needed to confirm their recommendation in relation to the size of the Planning Committee.

4. Next Steps

The information set out on the front sheet of the agenda was noted and it was highlighted that a draft report, based on the evidence received and feedback provided by the Task Group, would be circulated ahead of the next meeting.

The meeting finished at 7.20pm