

Surrey Heath Borough Council

Council

13 December 2023

Governance Working Group

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Wards Affected: n/a

Summary and purpose

To note the Governance Working Group's decision in relation to not progressing the suggestion to appoint an Independent Representative on the Audit, Standards & Risk Committee and consider its recommendations concerning changes to the arrangements for making decisions using Urgent Action.

Recommendation

The Council is advised to RESOLVE that

- (i) the Governance Working Group's decision not to progress with introducing arrangements for appointing an Independent Representative on the Audit, Standards & Risk Committee be noted; and
- (ii) the provisions for making Urgent Action decisions at Part 3, Section B of the Constitution be updated as set out at Annex A to this report, be agreed.

1. Background

- 1.1 The Governance Working Group met on 24 November 2023 and has made recommendations, which are set out below.

2. Independent Representative on the Audit, Standards and Risk Committee

- 2.1 The Working Group discussed whether to appoint an Independent Representative on the Audit, Standards and Risk Committee, including whether that role should chair the committee. Discussions included the supporting information that would need to be determined if such a role was appointed including eligibility for the role, the recruitment and appointment process, signing up to the Code of Conduct, the term of office, performance review, eligibility for re-appointment, and a recommended approach for an allowance.

2.2 Having discussed the matter in detail, the Working Group decided not to recommend the introduction of an Independent Representative at this time. It was noted that the recent introduction of public questions at committees would provide an opportunity to inform and challenge committees, therefore meeting the aims of introducing independent oversight and scrutiny by a different method.

3. Urgent Action

3.1 The Scheme of Delegation of Functions to Officers at Part 3 of the Constitution provides for *he Chief Executive, Strategic Director or Head of Service are authorised to determine matters of an urgent nature which cannot wait for the next meeting of the decision-making body which are not key decisions and which do not contravene established policies or budgets,*

3.1.1 after consultation with the Leader and Mayor in relation to Council functions;

3.1.2 after consultation with the Leader or relevant Portfolio holder and with the Chairman or Vice-Chairman of the relevant Scrutiny Committee in relation to Executive functions; and

3.1.3 after consultation with the Chairman or Vice Chairman of the relevant regulatory Committee.

3.2 The forward programmes of the decision-making bodies should be able to identify all up-coming decisions required. As a result, urgent action procedures should only need to be used in very rare circumstances, where the time limited nature of the decision precludes calling an additional meeting.

3.3 It should be noted that Urgent Action cannot be used for key decisions nor contravene established policies or budgets. In the event that a key decision, or decision outside the budget or policy framework, is required urgently, an additional meeting can be called and Urgency Procedures (set out in legislation and also in separate parts of the Constitution) can be used. In the case of a key decision, these procedures can be used to truncate the usual requirement to publish notice of the decision 28 days before the meeting.

3.4 The Working Group has reviewed these arrangements and noted historical use of this procedure. It proposes that amendments are made to the procedures to:

3.4.1 require statutory officers to countersign any decision, thus ensuring their support for the decision and use of this procedure;

3.4.2 clarify that a deputy can act in the absence of the named statutory officer; similarly the deputy Mayor or Vice-Chair or acts in the absence of the Mayor or Chair;

3.4.3 make clearer the existing provisions that Urgent Action cannot be used for key decisions nor contravene established policies or budgets; furthermore, they cannot extend an existing decision that means it could now be classified as a key decision; and

3.4.4 signpost the procedures that can be used in cases that cannot meet the requirements set for using Urgent Action.

4. Proposal and Alternative Options

4.1 It is proposed that the Council adopts the recommendation, with or without any further amendments it considers appropriate.

5. Resource Implications

5.1 There are no specific resource implications associated with the proposals in this report, although it should be noted that if the Council is minded to ask the Working Group to reconsider its decision not to introduce an Independent Representative on the Audit, Standards & Risk Committee there would be additional resource implications associated with that role.

6. Section 151 Officer Comments

6.1 Any costs can be contained within existing budgets.

7. Legal and Governance Issues

7.1 The Governance Working Group's Terms of Reference include reviewing and making recommendations to the Full Council on changes to the Constitution. Only the Full Council can make changes to the Constitution, although the Head of Legal & Democratic Services has delegated authority to make minor changes to the Constitution due to administrative error or oversight in order to give effect to the intended changes.

8. Monitoring Officer Comments

8.1 No further matters arising.

9. Other Considerations and Impacts

Environment and Climate Change

9.1 No matters arising.

Equalities and Human Rights

9.2 No matters arising.

Risk Management

9.3 No matters arising.

Community Engagement

9.4 No matters arising.

Annexes

Annex A – Proposed changes to Urgent Action at Part 3, Section B of the Constitution.

PART 3 – RESPONSIBILITIES FOR FUNCTIONS

SECTION B

SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS (extract)

General Principles

4. Urgent Action

- 4.1 Subject to the requirements set out in paragraphs 4.2 and 4.3, the Chief Executive, Strategic Director or Head of Service are authorised to determine matters of an urgent nature which cannot wait for the next meeting of the decision-making body ~~which are not key decision and which do not contravene established policies or budgets~~,
- 4.1.1 after consultation with the Leader and Mayor, or in their absence their respective deputies, in relation to Council functions;
- 4.1.2 after consultation with the Leader or relevant Portfolio Holder and with the Chair, or in their absence Vice-Chair, of the relevant Scrutiny Committee in relation to Executive functions;
- 4.1.3 after consultation with the Chair, or in their absence Vice Chair, of the relevant regulatory Committee.
- 4.2 All decisions taken using Urgent Action must be supported by the three Statutory Officers, namely the Head of Paid Service, Chief Finance Officer and Monitoring Officer or, in their absence, their deputies.
- 4.3 Urgent Action can only be taken in respect of decisions that
- 4.3.1 are not key decisions and which do not contravene established policies or budgets;
- 4.3.2 do not request additional expenditure which, when combined with any previous decision agreed, would cumulatively breach 4.3.1;
- 4.3.3 have not been the subject of a decision taken by Urgent Action within the previous 12 months;
- 4.3.4 do not contradict or reverse a decision of any of the Council's decision making bodies.
- 4.4 All Members will be advised by email as soon as a decision has been made and that decision will also be reported to the next meeting of the appropriate decision-making body.

4.5 In the event that an urgent decision is required that cannot meet the requirements of paragraph 4.3, Urgency Procedures in relation to key decisions should follow paragraph 19 at Part 4, Section F of this Constitution and for Urgency Procedures in relation to decisions outside the budget or policy framework, paragraph 4 at Part 4, Section G of this Constitution should be followed.