

## Governance Working Group

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|-------------------|------------------------|
| Portfolio:        | Non-executive function |
| Ward(s) Affected: | all                    |

### **Purpose:**

The Council is asked to consider the recommendations of the Governance Working Group in relation to:

- (i) Questions at Council by Members of the Public, Questions at Council by Councillors, and Leader's Question Time;
- (ii) Constitutional changes proposed arising from reports by Browne Jacobson and the Monitoring Officer; and
- (iii) Minor amendments to the Scheme of Delegation of Functions to Officers

### **1. Background**

- 1.1. The Working Group met on 12 November 2020. At this meeting it considered a number of issues and made recommendations which are addressed below.

### **2. Questions at Council**

- 2.1. The Working Group reviewed the procedures for questions at meetings of the Council, including the procedures concerning Questions from Members of the Public, Questions from Councillors, and Leader's Question Time.
- 2.2. The procedures for Questions by Members of the Public were considered and it was proposed to update the Procedure Rules by:
  - a. Increasing the time allocated for Questions from 15 to 30 minutes;
  - b. Clarifying that questions would be heard in the order received and, where an individual submitted more than one question, one question would be prioritised and all others heard after any questions from other members of the public;
  - c. Clarifying that any questions received that are not able to be heard within the 30 minutes will receive a written response from the relevant Member;
  - d. Limiting the length of a question to 125 words, with any words exceeding that cut from the published question;
  - e. Clarifying that responses to questions will be published by 2pm on the day of the meeting;
  - f. Stating that criticism directed at a named officer will not be accepted; and
  - g. Giving authority to the Executive Head of Corporate in consultation with the Monitoring Officer to defer or reject a question received during the pre-election period.
- 2.3. The Working Group discussed the procedures for Questions by Councillors and agreed to update the wording to clarify that answers to questions must be published by 2pm on the day of the meeting. With the exception of a minor

typographical change, it was agreed not to make any changes to the procedures for Leader's Question Time.

### **3. Executive Procedure Rules – Individual Decision Making – Recommendations from the Browne Jacobson Report**

- 3.1. The Working Group considered changes to Executive Procedure Rules to reflect the following recommendation in the Browne Jacobson report on the investigation into the decision to award the previous Chief Executive an Additional Duties Allowance:

152 The Constitution be amended to require that, wherever the Leader makes a delegated decision, any advice he/she receives in relation to that decision is recorded in writing and any requests for advice are similarly recorded.

- 3.2. The Working Group proposed that the recommendations made in the Browne Jacobson report be adopted by explicitly stating at paragraph 10.3 of the Executive Procedure Rules that any advice sought or received by a Member must be recorded.

### **4. Release of Securities – Recommendations from the Monitoring Officer's Report**

- 4.1. The Working Group considered proposed amendments to the Constitution arising from the recommendations in the Monitoring Officer's report on the decision to release a Local Land Charge on Field 81, Pennypot Lane, Chobham.

- 4.2. The Working Group recommended that the wording in paragraph 13 of Article 13 of the Constitution be extended to include the release of any securities in the definition of a Key Decision. It also proposed to include a paragraph in both the Scheme of Delegation of Functions to Officers and Financial Regulations stating that no officer was permitted to release any security, warranty or guarantee in favour of the council, unless contractually obliged to do so, without the written approval of the Section 151 Officer, or the Executive or relevant committee. Paragraph 5 in the Scheme of Delegation's General Principles would also be extended to include a more general reference to Finance, budgets and Financial Regulations.

### **5. Scheme of Delegation of Functions to Officers**

- 5.1. The Working Group recommended that the Scheme of Delegation be updated in respect of Licensing functions to include two additional Acts, which had inadvertently been omitted in the list of relevant legislation under which decisions were taken. It is proposed to insert the following pieces of legislation in the Executive Head of Community's licensing function delegations:

- a. The Town and Police Clauses Act 1847
- b. Local Government (Miscellaneous Provisions) Act 1976

5.2. The Working Group also proposed an addition to the Appendix of the General Principles in the Scheme of Delegation. This new section will reflect the authority given to the Executive Head of Community to be the designated officer in relation to current Coronavirus Regulations and any subsequent legislation, the authority given to named officers to enforce these regulations, and provide similar authority for officers to act in response to any future pandemics.

## **6. Options**

6.1. The Council has the option to agree the changes proposed, not agree these proposals, or propose any other alternatives as considered appropriate.

## **7. Resource Implications**

7.1. Any resource implications relating to the proposals relate to opportunity costs which can met from within existing budgets.

## **8. Recommendation**

8.1. The Council is advised to RESOLVE that

- (i) Paragraph 3 of Public Speaking Procedure Rules at Part 4, Section E of the Constitution be amended, as set out at Annex A to this report;
- (ii) Paragraph 11 of Council Procedure Rules at Part 4, Section A of the Constitution be amended as follows:

### **11.3 Response**

The question will be put and answered without discussion. An answer given may be given:

~~(a)~~ orally;

~~(a)~~ by reference to published material of the Council or that which is readily available to the members; or

~~(b)~~ in writing.

The question and the written response will be circulated to Councillors by no later than 2.00pm on the day of the Council meeting;

- (iii) Paragraph 11A of Council Procedure Rules at Part 4, Section A of the Constitution be amended as follows

11A.1 The purpose of Leader's Question Time is to allow Members to ask questions of the Leader which relate to **his**/her area of responsibility.;

- (iv) paragraph 10.3 of the Executive Procedure Rules at Part 4, Section B of the Constitution be updated as follows:

*“As soon as reasonably practicable after an Executive decision has been taken by the Leader or an individual member of the Executive or a key decision taken by an officer, the Chief Executive will prepare a record of the decision, a statement of the reasons for it, **any advice sought or received from officers, and the options considered**”.*

- (v) Paragraph 13.3 (b) (i) of Article 13 of the Constitution be is updated as follows:

### **Key Decisions**

- (i) Key decisions are those:

- likely to result in expenditure, **release of any securities (except where any release is pursuant to a contractual obligation)** or savings of at least £100,000 or £100 million if it relates to treasury management matters **or there may otherwise be an impact on the Council’s financial standing**; or
- likely to have a significant impact on people or organisations in two or more wards within the Borough
- which are made in the course of developing proposals to the Council to amend the policy framework;

- (vi) Paragraph 5 of the General Principles of the Scheme of Delegation of Functions to Officer at Part 3, Section B of the Constitution be updated as follows:

### **5. Finance and Budgets**

5.1 **Financial Regulations at Part 4 of this Constitution contain a number of authorisations to officers. All financial decisions made by officers must be taken in accordance with Financial Regulations or as otherwise authorised in this Scheme of Delegation.**

5.2 **No officer may release any security, warranty or guarantee in favour of the Council, unless contractually obliged to do so, without the written approval of the Council’s Section 151 officer or the Executive/ relevant Committee;**

- (vii) paragraph 6.6 of Financial Regulations at Part 4, Section H of the Council’s Constitution be updated to include the following:

### **6. Debt Write-Off and Release of Securities**

6.6.3 **No officer may release any security, warranty or guarantee in favour of the Council, unless contractually obliged to do**

**so, without the written approval of the Council's Section 151 officer or the Executive/ relevant Committee.**

(viii) the Scheme of Delegation of Functions to Officers at Part 3, Section B of the Constitution be updated as follows:

a) **The Executive Head of Community's licensing delegations be updated to include the following Acts:**

- a. **The Town and Police Clauses Act 1847**
- b. **Local Government (Miscellaneous Provisions) Act 1976;**  
**and**

b) **The following section be inserted in the Appendix to the General Principles**

**10. Response to Pandemics**

**10.1 The Executive Head of Community is appointed as the designated officer for the purposes of the following legislation:**

- 1) The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 (as amended)**
- 2) The Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 (SI 2020/684), as amended**
- 3) The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020 (SI 2020/1008) (as amended)**
- 4) The Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020**
- 5) The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI 2020/1005)**
- 6) The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020 (SI 2020/791), as amended.**

**and any subsequent relating legislation.**

**10.2 The following officers are appointed for the purposes of the enforcement of the above regulations:**

- a. **Any Environmental Health Officer**
- b. **Any Licensing Officer.**

**10.3 The Executive Head of Community will be appointed as the designated officer or equivalent in response to a national or local pandemic, as declared by the Government or Surrey Local Resilience Forum. The Executive Head of Community and Head of Legal will be authorised to**

**appoint officers to undertake any necessary enforcement arising from the pandemic.**

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| <b>Annexes</b>                    | Annex A – Proposed changes to the Public Speaking Rules at Part 4 of the Constitution  |
| <b>Background Papers:</b>         | None   |
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