



## **GOVERNANCE TASK GROUP REPORT TO COUNCIL**

### **GOVERNANCE ISSUES 15 DECEMBER 2009**

#### **KEY ISSUE/DECISION:**

The Governance Task Group was established by the Chairman of the County Council in July 2009, in response to the concerns raised by the Interim Chief Executive and with a remit to consider and make recommendations to Council on governance issues. The group was asked to particularly consider the role of Member/Officer relations in ensuring a healthy organisation in the future and any consequent revisions which may need to be made to the Constitution, and to advise the Chief Executive on any matters for consideration relating to the management and/or culture of the organisation. Council is asked to consider this report and recommendations of the Governance Task Group.

#### **BUSINESS CASE:**

##### **Introduction**

1. The Governance Task Group was established in July 2009. It includes members of both Audit and Governance and Standards Committees. Chaired by the Chairman of the County Council it has the Chairmen of the Audit and Governance and Standards Committees as co Vice-Chairmen. The group comprises 8 members split evenly between the committees and in the following proportions: 4 Conservative (Bill Barker, Mel Few, Geoff Marlow, Lavinia Sealy), 1 Liberal Democrat (Stephen Cooksey), 1 Residents' Associations/Independents (Nick Harrison) and 2 independent members of the Standards Committee (Simon Edge, Simon Rutter).
2. The establishment of the group and its composition was reported to the Council on 21 July 2009 by the Leader in response to a Member's question. The Task Group, chaired by Geoff Marlow, met on nine occasions between August and November 2009 and heard evidence from the current Chief Executive and other officers within the Corporate Services Directorate. In the interests of gaining a rounded view, a number of members of the former Executive were invited to present their views to the Task Group. One Member took up the invitation and attended a meeting of the Task Group. The Task Group also considered the governance and cultural issues raised in the report of the Interim Chief Executive to 14 July Cabinet. The initial report and recommendations of the Task Group were considered at a joint seminar of the Audit and Governance and Standards Committees on 30 November.

The recommendations contained in this report have the endorsement of both the Audit and Governance and Standards Committees and are commended to Council for its agreement.

## **Task Group Findings**

### Whistle-blowing

3. The Council's whistle-blowing policy is entitled 'Speaking Out' and is not clearly branded as a whistle-blowing policy, nor effectively publicised. The arrangements for whistle-blowing are currently mainly focussed on internal whistle-blowing and the requirements of the Public Interest Disclosure Act. There appears to be a lack of confidence amongst officers that the current policy is effective and that action will be taken if matters are reported. This is particularly the case for senior officers using the policy where reporting lines for whistle-blowing may be less obvious or non-existent. A particular weakness, highlighted by the Chief Executive to the Task Group is that, where allegations are made the process for investigating and dealing with the findings of the investigation are not well defined. This means that completed investigation reports may or may not lead to appropriate action but there is no minuted decision with reasons available for proper scrutiny.
4. The Task Group noted that the structures and processes for making a whistle-blowing allegation were in place, but that the culture of the organisation had not encouraged staff to feel safe to speak out and be heard. It was also important that external sources as well as staff were able to use the policy.

Recommendations about whistle-blowing:

5. The Council should develop a communications plan aimed at raising awareness and creating a culture of greater accessibility to whistle-blowing by people working for the Council, including those employed by external service providers, and the public.
6. The policy should encourage any "whistle blowing" disclosure to be made to named roles in the Council and include a clear escalation route for any reported allegations, involving the Chairman of the Council, Chairman of the Standards Committee and Chairman of the Audit and Governance Committee as appropriate. It should also signpost those external bodies which are prescribed by law to enable officers, particularly senior officers who have run out of 'headroom' to report issues within the protection of the Public Interest Disclosure Act.
7. Anyone who is authorised by the policy to receive whistle blowing disclosures should be trained on the proper procedures to follow and how to record allegations. Once an allegation had been made through the whistle-blowing process and an appropriate investigation undertaken, the senior officers involved should take a clear formally recorded decision in respect of the outcome, for example, no further action required, specific actions required, etc. A report setting out any whistle-blowing allegations received and the actions taken in respect of them should be submitted twice yearly to the Audit and Governance Committee to enable the Committee to monitor the process and also to consider matters further if it were felt necessary.

8. The Task Group noted that officers were currently undertaking a review of the whistle-blowing policy and recommended that the above points regarding rebranding, communications, escalation routes and clearly taken and recorded decisions be taken into account when drafting and promoting the revised policy.
9. It is recognised that strengthening and rebranding of the whistle-blowing policy will give officers a clear route to report issues, but this could still break down if officers feel that no action will be taken as a result. One option to safeguard against this would be to provide an alternative avenue of reporting as detailed in paragraph 6 above, for example to the Chairman of the Audit and Governance Committee. A Chairman who is independent of the majority group is considered to be an advantage and allows another reporting line if the usual line breaks down.
10. **The Task Group recommends therefore:**
  - (a) **That, when reviewing the whistle-blowing policy, officers ensure that the policy is clearly rebranded as a whistle-blowing policy, that they consider best practice from other areas, that it contains clear escalation routes, including alternative avenues of reporting, such as the Chairman of the Council, the Chairman of the Standards Committee (an independent person who is not a member of the Council) and the Chairman of the Audit and Governance Committee, and a process for taking, recording and reporting decisions in respect of any allegations.**
  - (b) **That a communications plan aimed at raising awareness and creating a culture of greater accessibility to whistle-blowing from both internal and external sources be implemented.**
  - (c) **That any whistle-blowing allegations received and the actions taken in respect of them should be reported on a twice yearly basis to the Audit and Governance Committee.**
  - (d) **That the Constitution should be revised to ensure that the Chairman of the Audit and Governance Committee must be a member of one of the minority groups.**

### Leadership

11. The report of the Interim Chief Executive to Cabinet on 14 July 2009 highlighted a number of problems relating to the failure of leadership and a breakdown in mutual trust and confidence between some Members and some officers. Evidence heard by the Task Group also identified that the former County Council Management team had also been widely regarded as dysfunctional. The Task Group has concluded that effective leadership, both political and cultural, is vital to the organisation. A good working relationship between the Chief Executive and the Leader of the Council and an ability to discuss areas of concern and set the Council's direction and priorities is considered to be essential in underpinning the effective leadership of the County Council. An effective appraisal system for the Chief Executive and Strategic Directors is also key to ensuring good leadership.

12. The Task Group heard from the recently appointed Chief Executive that he now holds regular recorded weekly meetings with the Leader and commended this as best practice. It was also noted that the Head of HR and Organisational Development was currently reviewing the appraisal and remuneration systems for senior officers and would report accordingly to the People, Performance and Development Committee. The Task Group considered that, as part of any appraisal process, clear objectives should be set for the Chief Executive and Strategic Directors and these objectives regularly reviewed. It also recommends that all Members should have an opportunity to contribute to the formal appraisal process for the Chief Executive and Strategic Directors.
13. **The Task Group recommends therefore:**
  - (a) **That regular recorded weekly meetings between the Chief Executive and the Leader be commended as best practice.**
  - (b) **That proper appraisal processes for the Chief Executive and Strategic Directors are in place and agreed by the People, Performance and Development Committee, including the setting and reviewing of clear objectives, and that all Members have an opportunity to contribute to this process.**

Statutory Officer reporting lines

14. The Task Group considered the current structure whereby the Monitoring Officer and Section 151 Officer (Statutory Officers) were part of the Corporate Services Directorate and did not report directly to the Chief Executive. The Task Group was concerned that the Council's Statutory Officers should be able to carry out their roles effectively and independently and was minded to support a change to the current reporting lines so that these officers report directly to the Chief Executive, and are therefore members of the Corporate Leadership Team (CLT). The Task Group also considered that the Head of Audit and Risk Assurance should also report directly to the Chief Executive.
15. The Task Group noted that the Chief Executive did not favour direct reporting of the Statutory Officer posts as an appropriate way forward, nor that they should be members of CLT. It was a common trend in local authorities for there to be a strategic director covering the corporate services, as at Surrey County Council. The Monitoring Officer and Section 151 Officer attended CLT for key discussions where legal or finance advice was required. Structural reporting lines of the Statutory Officers were less important than ensuring regular direct access to the Chief Executive. This direct access had been established by the introduction of regular programmed meetings.
16. The Chief Executive attended a meeting of the Task Group on 24 November to outline the new structure he was proposing to implement with effect from 11 January 2010. The new structure, which had been announced to all staff, was intended to strengthen internal governance arrangements and would place the Section 151 Officer and Monitoring Officer in different directorates – the Section 151 Officer in Change and Efficiency (reporting to the Strategic Director, Change and Efficiency) and the Monitoring Officer in the Chief Executive's Office (reporting to the Deputy Chief Executive). The post of Head of Audit and Risk Assurance would be deleted, and the audit function would become part of the Performance and Audit Service within the Chief

Executive's Office. The Internal Audit and Inspection Manager would have direct access to the Chief Executive and there would be regular formal meetings as part of the new strengthened governance arrangements. The Chief Executive reiterated that the Section 151 Officer, Monitoring Officer and Internal Audit and Inspection Manager should have a right to report directly to him on issues, but should not be directly line managed by him. He would also hold regular programmed and minuted meetings with these officers. The proposed structure was recognised as best practice by the Audit Commission and the combining of the audit and performance functions recognised the contribution of the audit function to improving performance within the organisation.

17. Notwithstanding the above views expressed by the Chief Executive, and noting that the officer structure of the council was a matter for the Chief Executive, some members of the Task Group remain of the view that direct reporting lines for the Section 151 Officer, Monitoring Officer and Head of Audit and Risk Assurance (*Audit and Inspection Manager with effect from 11/01/10*) would ensure these officers were better able to carry out their roles effectively. These members retain some reservations with regard to the proposed reporting lines and the profile of the internal audit function.
18. However, the Task Group as a whole acknowledges the aims and the compensating controls introduced by the structure proposed by the Chief Executive. The Task Group, therefore, asks the Audit and Governance Committee to maintain a watching brief with regard to the effectiveness of the new structure.
19. **The Task Group recommends therefore:**

**That the Audit and Governance Committee maintains a watching brief with regard to the effectiveness of the new organisational structure.**

#### Member Involvement

20. The Task Group concurred in the findings of the Interim Chief Executive that some Executive Members had become too involved in operational matters and that they were 'micromanaging' services on a day to day, operational basis, possibly because of a lack of officer leadership. An example of this was the attendance of Executive Members at senior management team meetings, with Members becoming de facto members of the management team, leading to a lack of a clear delineation of roles between officers and Members.
21. Clarity of officer and Member roles is essential. To that end, the Member/Officer Protocol should include role profiles for Members and advice on attendance at officer meetings. The Task Group considered that the current Member/Officer Protocol lacked clarity and was concerned that the protocol did not include any information on dealing with breaches. A revised protocol which addresses these concerns has been drafted and is attached at Annex 1. The Task Group was also of the view that the awareness of both Members and officers of the provisions of the Protocol needed to be raised and it was important that training was provided. It was noted that the wording in paragraphs 16 and 17 of the Protocol relating to Member/officer relations and behaviour could be made more explicit, particularly in respect of what

behaviours were not acceptable, and it was suggested that the Standards Committee could review these sections in light of other authorities' protocols.

22. **The Task Group therefore recommends:**
- (a) **That the changes to the Member/Officer Protocol attached at Annex 1 be agreed (*shown in track changes*).**
  - (b) **That all senior officers and Members receive awareness training on the Member/Officer Protocol.**
  - (c) **That the Standards Committee reviews the sections of the Member/Officer Protocol relating to Member/officer behaviour and relations (paragraphs 16 and 17), in light of other authorities' protocols, to ensure that the Protocol adequately addresses expected behaviours, and recommends any changes to Council.**

#### Scrutiny

23. Good governance is underpinned by effective scrutiny. It could be argued that some Select Committees are not scrutinising consistently, but are sometimes acting as champions for their services in the same way as an old style service committee. The effectiveness of Select Committees needs to be improved to ensure that appropriate checks and balances are recognised, embedded and effective. There is a view that Select Committees are not taken seriously by either the Cabinet or officers and this is evidenced by the patchy attendance of senior officers and Cabinet Members at Select Committee meetings.
24. The Select Committee Chairmen's Group should consider how the scrutiny process can be improved. There should be an expectation that Cabinet Members, Strategic Directors and Heads of Service attend Select Committee meetings as appropriate. However, to enable officers and Members to identify those meetings, clear forward plans are required. The Chairmen's Group should also meet with the Cabinet to discuss matters of concern. In addition, Select Committees should regularly evaluate their own performance to ascertain how effective they have been and how performance can be improved.
25. **The Task Group therefore recommends that Select Committees (a) maintain a 4-month rolling forward plan and (b) regularly evaluate their performance on a six monthly basis, and calls upon the Select Committee Chairmen's Group to put this into effect in order to improve the scrutiny process.**

#### Audit Report on Transformation Programme Governance Arrangements

26. The Task Group noted that a report had been initiated in November 2008 and findings presented to the Leader in December 2008, but a formal Audit report was not completed and issued until September 2009. A key recommendation arising from the findings of the report is that the role of Corporate Services (*'Change and Efficiency' with effect from 11/01/10*) should be as a support function for front-line delivery rather than as a driver of major projects or a 'corporate policeman'.

27. The recommendations in the Audit report have been presented to the Audit and Governance Committee on 28 September 2009 and supported by that Committee.
28. **The Task Group endorsed the recommendations as follows:**
- 'The Council should ensure that the following become key features of all future major change programmes:**
- (1) Robust Business Case – Robust business cases for projects are established to support all significant spending decisions and these are fully supported by the Head of Finance and other relevant officers.**
  - (2) Changes to Business Cases Any significant changes to projects should require a revised business case, which must be reported to Cabinet for re-approval with the full support of the Head of Finance and other relevant officers.**
  - (3) Procurement – There should be full compliance with procurement rules in respect of tendering and contract negotiation for all major change programmes with full involvement of the Head of Procurement who should report instances of non-compliance to the Chief Executive and Audit and Governance Committee.**
  - (4) Governance - The progress of all major change programmes should be managed through proper governance arrangements including regular and documented monitoring meetings covering achievement of key milestones and review of project risks.'**

#### Bullying

29. The Task Group found that a culture of blame and bullying had been developing within pockets of the County Council, and agreed that bullying could include a lack of respect for an officer's professional judgement or expertise. Bullying must not be tolerated and staff should be encouraged to use the processes in place for reporting any incidences, including the whistle-blowing policy.
30. **The Task Group therefore recommends:**
- (a) That the Council makes clear its zero tolerance policy in respect of bullying of any kind.**
  - (b) That staff be encouraged to report any incidences of bullying in line with County Council policy.**
  - (c) That any incidences of bullying should be reported on a twice yearly basis to the People, Performance and Development Committee.**

#### Role of the Standards Committee

31. The Task Group found a lack of knowledge amongst officers regarding the role of the Standards Committee and the processes for reporting Members if they feel that the Member Code of Conduct has been breached.
32. **The Task Group therefore recommends:**

- (a) **That officers be reminded about the role of the Standards Committee and the processes for reporting breaches of the Member Code of Conduct.**
- (b) **That the Standards Committee considers how to promote its work more widely and continues to carry out the annual survey of Members and senior officers, which can help to identify areas of both strengths and weaknesses in Member/Officer relationships.**

#### **RECOMMENDATIONS:**

It is recommended that the Council agrees:

##### Whistle-blowing

- (1) That, when reviewing the whistle-blowing policy, officers ensure that the policy is clearly rebranded as a whistle-blowing policy, that they consider best practice from other areas, that it contains clear escalation routes, including alternative avenues of reporting, such as the Chairman of the Council, the Chairman of the Standards Committee (an independent person who is not a member of the Council) and the Chairman of the Audit and Governance Committee, and a process for taking, recording and reporting decisions in respect of any allegations.
- (2) That a communications plan aimed at raising awareness and creating a culture of greater accessibility to whistle-blowing from both internal and external sources be implemented.
- (3) That any whistle-blowing allegations received and the actions taken in respect of them should be reported on a twice yearly basis to the Audit and Governance Committee.
- (4) That the Chairman of the Audit and Governance Committee should be a member of one of the minority groups and that paragraph 6.8 of Section 2 of Part 3 of the Constitution (Responsibility for Functions – Audit and Governance Committee) and the Member Officer Protocol be amended accordingly.

##### Leadership

- (5) That regular recorded weekly meetings between the Chief Executive and the Leader be commended as best practice.
- (6) That proper appraisal processes for the Chief Executive and Strategic Directors are in place and agreed by the People, Performance and Development Committee, including the setting and reviewing of clear objectives, and that all Members have an opportunity to contribute to this process.

##### Statutory Officer reporting lines

- (7) That the Audit and Governance Committee maintains a watching brief with regard to the effectiveness of the new organisational structure.



### Member/Officer Protocol

- (8) That the changes to the Member/Officer Protocol attached at Annex 1 be agreed (*changes shown in track changes*).
- (9) That all senior officers and Members receive awareness training on the Member/Officer Protocol.
- (10) That the Standards Committee reviews the sections of the Member/Officer Protocol relating to Member/officer behaviour and relations (paragraphs 16 and 17), in light of other authorities' protocols, to ensure that the Protocol adequately addresses expected behaviours, and recommends any changes to Council.

### Scrutiny

- (11) That Select Committees (a) maintain a 4-month rolling forward plan, and (b) regularly evaluate their performance on a six monthly basis, and the Select Committee Chairmen's Group be called upon to put this into effect in order to improve the scrutiny process.

### Audit Report on Transformation Programme Governance Arrangements

- (12) That the following become key features of all future major change programmes:
  - (a) Robust Business Case – Robust business cases for projects are established to support all significant spending decisions and these are fully supported by the Head of Finance and other relevant officers.
  - (b) Changes to Business Cases Any significant changes to projects should require a revised business case, which must be reported to Cabinet for re-approval with the full support of the Head of Finance and other relevant officers.
  - (c) Procurement – There should be full compliance with procurement rules in respect of tendering and contract negotiation for all major change programmes with full involvement of the Head of Procurement who should report instances of non-compliance to the Chief Executive and Audit and Governance Committee.
  - (d) Governance - The progress of all major change programmes should be managed through proper governance arrangements including regular and documented monitoring meetings covering achievement of key milestones and review of project risks.

### Bullying

- (13) That the Council makes clear its zero tolerance policy in respect of bullying of any kind.
- (14) That staff be encouraged to report any incidences of bullying in line with County Council policy.
- (15) That any incidences of bullying should be reported on a twice yearly basis to the People, Performance and Development Committee.

### Role of the Standards Committee

- (16) That officers be reminded about the role of the Standards Committee and the processes for reporting breaches of the member Code of Conduct.
- (17) That the Standards Committee considers how to promote its work more widely and continues to carry out the annual survey of Members and senior officers, which can help to identify areas of both strengths and weaknesses in Member/Officer relationships.

<b><u>REASONS FOR RECOMMENDATIONS:</u></b>
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To ensure the governance issues identified in the report of the Interim Chief Executive are addressed.

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**Sources/background papers:**

Council's Constitution  
Surrey County Council – Diagnostic and Stocktake: Handover report to new Chief Executive, Leader and Cabinet – Cabinet, 14 July 2009  
Review of Transformation Programme Governance Arrangements

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