

REPORT TITLE: JOINT ENVIRONMENTAL SERVICES COMMITTEE (EAST HANTS DISTRICT COUNCIL/WINCHESTER CITY COUNCIL) – AMENDMENT TO TERMS OF REFERENCE

6 DECEMBER 2017

REPORT OF PORTFOLIO HOLDER: PROFESSIONAL SERVICES – CLLR STEPHEN GODFREY

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WARD(S): GENERAL

PURPOSE

The purpose of this Report is to seek agreement to the amendment of the Terms of Reference of the Joint Environmental Services Committee (JESC) to require at least one member from each Council to be present for a meeting to be quorate.

This change was agreed at the JESC meeting on 26 October 2017 for recommendation to the Cabinet at both this Council and East Hampshire District Council (relevant Report attached at Appendix 1).

RECOMMENDATIONS:

That the Terms of Reference of the East Hampshire District Council/Winchester City Council Joint Environmental Services Committee be amended

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None.

Other Background Documents:-

None.

APPENDICES:

Appendix 1 – Report to EHDC & WCC Joint Environmental Services Committee

NON-EXEMPT

EAST HAMPSHIRE DISTRICT COUNCIL & WINCHESTER CITY COUNCIL

EHDC & WCC Joint Environmental Services Committee

26th October 2017

Joint Environmental Service Committee – Amended Terms of Reference

Nicola Watts – Environmental Services Contract Manager (EHDC)

For Recommendation to Cabinet

**Portfolios: Cllr Tony Costigan (EHDC, Commercial Contracts),
Cllr Jan Warwick (WCC, Environment, Health & Wellbeing)**

Key Decision: No

1.0 Purpose of Report

1.1 To seek agreement to amend the Terms of Reference of the Joint Environmental Services Committee.

2.0 Recommendations

The Joint Committee

1. Note the amendments made to the Terms of Reference in Appendix 1.
2. Agree to these amended Terms of Reference as set out in Appendix 1.

3.0 Detail

3.1 At the JESC held in August 2017, because of some confusion regarding member attendance, EHDC members were stood down, and then the meeting subsequently went ahead in the presence of only WCC members where important information was discussed. EHDC members were then subsequently briefed on the meeting decisions.

3.2 Whilst the meeting was quorate in terms of the current constitution, clearly such an arrangement is not ideal as JESC has always benefited from the

presence of Members from both authorities to discuss important operational issues.

3.3 As a result of this occurrence the JESC Terms of Reference have been reviewed and some minor changes recommended as set out below.

3.4 Clause 8.3 has been inserted which states;

'The Joint Committee must consist of at least one member from each Authority in order for the meeting to proceed. In the event that this is not the case the meeting should be postponed until a later date to be agreed by the chairman.'

3.5 The remaining Terms of Reference have been renumbered to reflect the insertion.

3.6 Clause 1.5 under Definitions has changed from 'Head of Democratic Services Officer' to 'Democratic Services Officer'. There is no requirement for this to be the 'Head of', and can be dealt with at Officer level. This amendment has been changed and updated in clause in 4.5.2 and in 4.6.

4.0 Implications

4.1 **Resources:** There are no resource implications of these changes.

4.2 **Legal:** The amendment ensures that each Authority has member presence at every JESC meeting, in particular for important key decisions that may have a legal implication for that Authority.

4.3 **Strategy:** The amendment ensures that each Authority has member presence at every JESC meeting, in particular for important key decisions that may have a strategic implication for that Authority.

4.4 **Risks:** The amendment eliminates the risk that an Authority may not be presented at a JESC meeting, but could result in postponement of meetings in the event that all members of a particular Authority are unavailable to attend for any reason.

4.5 **Communications:** The changes will be accessible to all members through the minutes of this meeting.

Appendices:

Appendix A – JESC Terms of Reference – amended version.

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Joint Environmental Services Committee – Constitution

This Constitution had been approved by East Hampshire District Council and Winchester City Council as the Constitution of the Joint Committee.

1. Definitions

In this Constitution, the following terms shall have the meanings ascribed to them:-

- 1.1. “Administering Authority” means the Authority selected to administer the joint procurement arrangements
- 1.2. “Authority” means East Hampshire District Council and/or Winchester City Council.
- 1.3. “Cabinet” means the Executive (within the meaning of Section 11 of the Local Government Act 2000).
- 1.4. “Contract” means the contract to be let by the Administering Authority as part of the agreed joint procurement arrangements between the Authorities.
- 1.5. “Democratic Services Officer” means the officer within each Authority responsible for committee administration within that Authority.
- 1.6. “Joint Committee” means the Joint Environmental Services Committee established under this Constitution.
- 1.7. “Legal Adviser” means the officer nominated by the Administering Authority to provide legal advice to the Joint Committee
- 1.8. “Project Director” means the officer nominated by the Administering Authority to oversee the joint procurement and the Contract.
- 1.9. “Secretary” means the officer appointed by the Joint Committee in accordance with Clause 6.2 of these Terms of Reference to act as the secretary of the Joint Committee.

2. Establishment of the Joint Committee

- 2.1. The Joint Committee shall be the “East Hampshire and Winchester Joint Environmental Services Committee”.
- 2.2. The Joint Committee is established under Section 101(5) of the Local Government Act 1972, as applied by Section 20 of the Local Government Act 2000 and Regulation 11

of the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2000 by the Cabinets of East Hampshire District Council and Winchester City Council.

- 2.3. The area within which the Joint Committee is to exercise its authority is the area covered by the administrative districts of Winchester and East Hampshire.
- 2.4. This Constitution sets out how the Joint Committee will operate and how decisions are made.

3. Objectives

- 3.1. The purpose of the two Authorities in establishing the Joint Committee is to facilitate the efficient joint procurement of, and the subsequent operation and management of, a joint contract for waste and recycling collections, street cleaning, grounds maintenance and associated services facilities for the treatment and disposal of residual waste in pursuance of the waste collection, street cleaning and grounds maintenance functions of the two Authorities arising under the Environmental Protection Act 1990, the Local Government (Miscellaneous Provisions) Act 1976 and the Local Government Act 1972.

4. Membership and Appointment of the Joint Committee

- 4.1. The Joint Committee shall comprise six Members, being three Members from each Authority. Each appointing Authority shall, unless there are overriding reasons to the contrary, appoint to the Joint Committee the Leader and the member of the Cabinet of that Authority who has portfolio responsibility for waste functions within that Authority.
- 4.2. Each member of the Joint Committee shall be appointed for the term of office, or the balance of the term of office, of the Executive of the appointing Authority.
- 4.3. Each Authority may appoint another named person to act as a Deputy for any of their appointed Members of the Joint Committee. Where the appointed Member is unable to attend a meeting of the Joint Committee, their Deputy may attend and carry out their responsibilities, including voting in their absence.
- 4.4. The appointment of members of the Joint Committee to fill any vacancy for such members shall be made by the Cabinet of each Authority:
 - 4.4.1. as soon as practicable following the adoption of this Constitution by the Cabinet of that Authority;
 - 4.4.2. as soon as practicable after the election of the Cabinet of that Authority in accordance with that Authority's Constitution; and
 - 4.4.3. as soon as practicable after a vacancy arises in respect of a seat on the Joint Committee to which the Executive of that Authority has the power to make an appointment.

- 4.5. A member of the Joint Committee shall cease to be a member of the Joint Committee, and a vacancy shall automatically arise, where:
- 4.5.1. The member ceases to be, or is suspended under Part III of the Local Government Act 2000 from acting as:
- (a) a member of an appointing Authority, or
 - (b) a member of the Executive of the appointing Authority;
- 4.5.2. The member is removed from membership of the Joint Committee by notification in writing from the Democratic Services Officer of the appointing Authority to the Secretary of the Joint Committee;
- 4.5.3. The member fails to attend all meetings of the Joint Committee within a period of six (6) months.
- 4.6. All appointments to membership of the Joint Committee shall be made by notification in writing from the Democratic Services Officer of the appointing Authority to the Secretary of the Joint Committee.
- 4.7. Upon being made aware of any member ceasing to be a member of the Joint Committee, the Secretary of the Joint Committee shall write to that member confirming that he/she has ceased to be a member of the Joint Committee, and notify the appointing Authority and the other members of the Joint Committee accordingly.

5. Chairman and Vice-Chairman of the Joint Committee

- 5.1. At the first meeting of the Joint Committee after the 1st May in any year, the Joint Committee shall elect a Chairman of the Joint Committee and a Vice Chairman of the Joint Committee for the following year from among the members of the Joint Committee.
- 5.2. Where a member of one appointing Authority is elected as the Chairman of the Joint Committee, the Vice Chairman of the Joint Committee shall be elected from among the members of the Joint Committee who are members of the other appointing Authorities.
- 5.3. The Chairman and Vice Chairman of the Joint Committee shall each hold office until:
- 5.3.1. A new Chairman or Vice Chairman of the Joint Committee is elected in accordance with Paragraph 5.1 above,
 - 5.3.2. He/she ceases to be a member of the Joint Committee, or
 - 5.3.3. He/she resigns from the office of Chairman or Vice Chairman by notification in writing to the Secretary of the Joint Committee.
- 5.4. Where a casual vacancy arises in the office of Chairman or Vice Chairman of the Joint Committee, the Joint Committee shall at its next meeting elect a Chairman or Vice

Chairman, as the case may be, for the balance of the term of office of the previous Chairman or Vice Chairman.

- 5.5. Where, at any meeting or part of a meeting of the Joint Committee, both the Chairman and Vice Chairman of the Joint Committee are either absent or unable to act as Chairman or Vice Chairman, the Joint Committee shall elect one of the members of the Joint Committee present at the meeting to preside for the balance of that meeting or part of the meeting, as appropriate.

6. Secretary of the Joint Committee

- 6.1. The Joint Committee shall be supported by the Secretary of the Joint Committee.
- 6.2. The Secretary of the Joint Committee shall be an officer of one of the appointing Authorities, appointed by the Joint Committee for this purpose.
- 6.3. The functions of the Secretary of the Joint Committee shall be:
- To maintain a record of membership of the Joint Committee;
 - To notify the proper officers of each appointing Authority of any anticipated “key decisions” to be taken by the Joint Committee, to enable such “key decisions” to be included in Forward Plans of each appointing Authority;
 - To carry out such notification to and consultation with members of any appointing Authority as may be necessary to enable the Joint Committee to take urgent “key decisions” which have not been included in the Forward Plans of the appointing Authorities;
 - To summon meetings of the Joint Committee in accordance with Paragraph 7 below;
 - To prepare and send out the agenda for meetings of the Joint Committee in consultation with the Chairman and the Vice Chairman of the Committee and the Project Director;
 - To keep a record of the proceedings of the Joint Committee;
 - To take such administrative action as may be necessary to give effect to decisions of the Joint Committee;
 - Such other functions as may be determined by the Joint Committee.

7. Convening of Meetings of the Joint Committee

- 7.1. Meetings of the Joint Committee shall be held at such times, dates and places as may be notified to the members of the Joint Committee by the Secretary of the Joint Committee, being such time, place and location as:

- 7.1.1. the Joint Committee shall from time to time resolve; or
- 7.1.2. the Chairman of the Joint Committee, or if he/she is unable to act, the Vice Chairman of the Joint Committee, shall notify to the Secretary of the Joint Committee, or
- 7.1.3. the Secretary of the Joint Committee, in consultation where practicable with the Chairman and Vice Chairman of the Joint Committee, shall determine in response to receipt of a request in writing addressed to the Secretary of the Joint Committee:
 - (a) from and signed by two members of the Joint Committee, or
 - (b) from the Chief Executive of any of the appointing Authorities.

which request sets out an urgent item of business within the functions of the Joint Committee.

7.2. The Secretary of the Joint Committee shall settle the agenda for any meeting of the Joint Committee after consulting, where practicable:

- 7.2.1. The Chairman of the Joint Committee;
- 7.2.2. The Vice Chairman of the Joint Committee;
- 7.2.3. The Project Director.

and shall incorporate in the agenda any items of business and any reports submitted by:

- (a) The Chief Executive of any of the appointing Authorities;
- (b) the Chief Finance Officer to any of the appointing Authorities;
- (c) the Monitoring Officer to any of the appointing Authorities;
- (d) the Legal Adviser to the Joint Committee;
- (e) the Project Director;
- (f) any two members of the Joint Committee in accordance with Paragraph 9.1.3 below.

8. Procedure at Meetings of the Joint Committee

8.1. The Joint Committee shall, unless the member of the Joint Committee presiding at a meeting or the Joint Committee determines otherwise, conduct its business in accordance with the Executive Decision-Making Procedure Rules of East Hampshire District Council, except in so far as may be specified to the contrary in this Constitution.

- 8.2. The Chairman of the Joint Committee, or in his/her absence the Vice Chairman of the Joint Committee, or in his/her absence the member of the Joint Committee elected for this purpose, shall preside at any meeting of the Joint Committee.
- 8.3. The Joint Committee must consist of at least one member from each Authority in order for the meeting to proceed. In the event that this is not the case the meeting should be postponed until a later date to be agreed by the chairman.
- 8.4. Subject to Clause 8.5, questions shall be decided by a majority of the votes of the members present and voting.
- 8.5. The chairman shall not have a second or casting vote.
- 8.6. Where a relevant matter has been voted on, and immediately following the declaration of the result of a vote, at least one Member indicates a wish to invoke this provision, the decision shall not take immediate effect, but shall be adjourned for further consideration at a subsequent meeting of the Joint Committee and if at that subsequent meeting the Joint Committee shall on that question again be unable to reach a binding decision, the question may be referred for determination by the Councils.
- 8.7. Where the effect of a particular proposition, if adopted by the Joint Committee, would be to give rise to contractual or financial implications for any Authority, then in addition to the normal requirement for a simple majority of votes, the vote of both of the Members appointed by that Authority, in favour of the proposition, shall be required. Where a particular proposition does not obtain such support, the proposition cannot be adopted by the Board.

9. Powers Delegated to the Joint Committee

- 9.1. The Cabinets of each of the appointing Authorities has delegated to Joint Committee all executive functions and powers of that Authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the functions of the Joint Committee except as specified below.
- 9.2. The following functions are reserved to the appointing Authorities and shall not be within the powers of the Joint Committee:
 - 9.2.1. All non-executive functions of any of the appointing Authorities;
 - 9.2.2. Any decision which is contrary to or not wholly in accordance with the Budget approved by each appointing Authority for the Joint Committee, or is contrary to an approved policy or strategy of any of the appointing Authorities PROVIDED THAT decisions on the following policy harmonisation issues may be taken by the Joint Committee:-

Refuse

- a) Hard to Reach Properties
- b) Bin Colour
- c) Dwellings housing larger families
- d) Bulky Waste/replacement bin charges
- e) Side waste
- f) Bank Holiday working

Street Cleaning

- g) Nature of Highway Cleaning Specification (Input/Output)
- h) Parish Council service level agreements
- i) Response times for flytipping
- j) Trunk Road Cleaning

Grounds Maintenance

- k) Frequency of Grass Cutting

- 9.2.3. Any decision in respect of which the Chief Executive of any of the appointing Authorities has notified the Secretary of the Joint Committee in writing of the Authority's formal objection to the proposed decision.
- 9.2.4. Approval of the selection and evaluation criteria to select tenderers and award the Contract;
- 9.2.5. Approval or amendment of any Inter Authority Agreement between the appointing Authorities in respect of the discharge of the appointing Authorities' waste collection functions

10. Attendance at Meetings of the Joint Committee

- 10.1. Notwithstanding that a meeting or part of a meeting of the Joint Committee is not open to the press and public the officers specified in Paragraph 10.2 below of each of the appointing Authorities shall be entitled to attend all, and all parts, of such meetings, unless the particular officer has a conflict of interest as a result of a personal interest in the matter under consideration.
- 10.2. The following are the officers who shall have a right of attendance in accordance with Paragraph 10.1:
 - 9.2.1 the Chief Executive of any of the appointing Authorities;
 - 9.2.2 the Chief Finance Officer to any of the appointing Authorities;
 - 9.2.3 the Monitoring Officer to any of the appointing Authorities;
 - 9.2.4 any person appointed by the Joint Committee to manage the procurement of the Contract or manage the Contract;

9.2.5 the senior technical officer of each Authority with responsibility for waste collection functions

9.2.6 the Secretary of the Joint Committee

10.3. **Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules**

10.4. The Joint Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of East Hampshire District Council.

11. Amendment of this Constitution

11.1. This constitution can only be amended by resolution of all appointing Authorities.