

Division(s):

AUDIT & GOVERNANCE COMMITTEE -25 JULY 2018

JOINT WORKING ARRANGEMENTS BETWEEN OXFORDSHIRE COUNTY COUNCIL & CHERWELL DISTRICT COUNCIL: MANAGING CONFLICTS OF INTEREST

Report by Director of Law & Governance

Introduction

1. Cabinet agreed on 4 June 2018 to approve, in principle, a joint working arrangement with Cherwell District Council. These arrangements are to be governed by a formal “s113 Agreement” which is currently being finalised. The decision to enter into joint working arrangements, and an s113 Agreement, was also endorsed by Cherwell District Council at its meeting on 16 July.
2. It is intended by both authorities that the governance arrangements will include the appointment of a joint Chief Executive and statutory Head of Paid Service (agreed by this Council on 10 July and Cherwell on 16 July), together with arrangements for a partnership working group, joint committees and a process for managing potential conflicts of interest.
3. This report seeks the Committee’s comments on the last of these issues – the process for managing conflicts of interest. A report on the other governance aspects will then be brought to the Committee for comment once these have been worked up in more indicative detail.
4. The report therefore sets out the proposed governance arrangements for managing conflicts of interest under joint working arrangements.

Managing conflicts of Interest – Ethical Walls

5. Under the joint working arrangements, a Joint Chief Executive will oversee the staffing of both authorities. Whilst the officers will be managed under one Joint Chief Executive, the two Councils will remain two distinct local authorities with different membership and political priorities. It is perhaps inevitable that conflicts between the two Councils may arise, whether that be a conflict in an operational issue (e.g. a fire safety concern about a Cherwell District Council property or an environmental health issue for a maintained school); or in the strategic approach to an issue (such as a differing view about any proposed corridor to the Oxford to Cambridge expressway).

6. It is important that both members and officers are alive to those potential conflicts and are vigilant in managing them. A conflict of interest protocol has been in place to manage the arrangements between Cherwell District Council and South Northamptonshire District Council through what is known as an **Ethical Walls Policy (and procedure)**. (See Annex 1 and 2). As this has proved effective, it is proposed that they largely be replicated between the County Council and Cherwell through the proposed adoption of:
 - a. **guidance**, to be incorporated into the Council's Constitution, relating to the roles of Members and Officers dealing with conflicts of interest; and
 - b. a **detailed procedure and guide** to establishing Ethical Walls.
7. It is anticipated that there will be rare occasions where it is not possible to reconcile the interests of two organisations with their respective legal responsibilities. The Ethical Walls arrangements set out a framework within which such a conflict would be managed. In short form, in any given circumstance, it would involve the Monitoring Officer alerting all the relevant officers and ring fencing them, establishing clearly to which local authority they will report over that particular issue. Those officers would then be instructed to liaise with any other officers, of either council, as if they were working with a third party, with all the consequences of protecting information and maintaining confidentiality.
8. The arrangements will be overseen by the Monitoring Officer and ultimately the Chief Executive who will seek to address any issues that might arise from the conflict. Officers will only be advising members and officers on their side of the Wall. Similarly, reports to formal meetings of either Council will reflect those arrangements.
9. It is suggested that Audit & Governance Committee receives regular reports on Ethical Walls that are in place and any issues that arise from them.

Legal and financial implications

10. While the s113 Agreement is a legal mechanism arising from the Local Government Act 1972, the implementation of 'Ethical Wall' arrangements are not in themselves required in law. However, they are very desirable and are demonstrative of good governance practice. As such, the Committee is invited to comment on the proposed adoption of a tailored version of the guidance and policy previously implemented by Cherwell District Council and South Northamptonshire District Council.

Recommendation

11. The Committee is **RECOMMENDED**:

- (a) To note and endorse the potential adoption of a conflicts of interests protocol and ethical walls policy;
- (b) To regularly monitor the operation of the protocols and policy; and
- (c) To delegate authority to the Monitoring Officer to make any further minor adjustments to these documents and make the necessary changes to the Council's Constitution

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Annexes: Protocols used by Cherwell District Council and South Northants Council

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