

CHILDREN'S AND ADULTS' CARE AND EDUCATION COMMITTEE AMENDED TERMS OF REFERENCE

Membership

- 2.3.1 Members of the Council, two General Practitioner Advisory Members to advise on childrens and adults public health and two Church Members co-opted with voting rights in respect of matters relating to education.

Functions

- 2.3.2 The Committee is responsible for the following functions/activities:

AfC Commissioning

AfC Band 3 Reserved Matters (Schedule 2 of the Inter Authority Agreement, Reserved Matters - see below) in conjunction with the Education and Children's Services Committee of the London Borough of Richmond upon Thames and the Cabinet of the Royal Borough of Windsor and Maidenhead

0-19 Education including Schools and School Place Planning

Special Educational Needs and Disabilities including the SEND Transformation Plan

Children's Centres

Alternative Education Provision

Youth Service

Safeguarding including Adult Safeguarding

Looked After Children and Unaccompanied Asylum Seeking Children

Adult Social Care

Public Health

Mental Health

Dementia Nursing Home

Equalities

Recommendations to Council on the Schools Budget Estimates and Schools Funding Formula

Early Years and Prevention

Lead on Children's and Adults' Health

AfC Band Three Reserved Matters

1. Enter into any arrangement, contract or transaction resulting in expenditure either with a capital value greater than £10,000 or revenue value greater than £10 million. Any expenditure of such revenue by the Company being less than £10 million shall be subject to the Company's own financial regulations and shall be subject to prior approval within the Business Plan and operating revenue budget, which shall be approved by each Council's relevant committee/executive in accordance with the Reserved Matters.
2. Enter into any arrangement, contract or transaction where the Company is providing services to third parties without following the Trading Opportunity Evaluation Process as agreed by each Council. Such arrangements, contracts or transactions shall also be subject to prior approval within the Business Plan, which shall be approved by each Council in accordance with the Reserved Matters.
3. Enter into any borrowing, credit facility or investment arrangement (other than trade credit in the ordinary course of business) that has not been approved by each Council under the Financial Plan.
4. Appoint or remove any auditor of the Company.
5. Adopt or amend the Business Plan in respect of each financial year, which for the avoidance of doubt shall include the adoption and amendment of an operating revenue budget for the financial year to which it relates.
6. Adopt or amend the Financial Plan.
7. Enter into any arrangement, contract or transaction within, ancillary or incidental to the ordinary course of the Company's business or is otherwise than on arm's length terms.
8. Deal with any surpluses of the Company.
9. Appoint or remove any Company Directors (from the Achieving for Children Board).
10. Agree any terms for any Directors (but for the avoidance of doubt this does not include the terms and conditions of employment of Executive Directors as defined in the Articles of Association of the Company).
11. Agreeing changes in employment terms and conditions which would be inconsistent with the National Joint Council National Agreement on Pay and Conditions of Service and any changes to the pay and grading structure of the chief executive post of the Company.

ACHIEVING FOR CHILDREN JOINT COMMITTEE AMENDED TERMS OF REFERENCE

Membership

6.1.1 Three Members of the Council, including the Leader of the Council and the Portfolio Holder with responsibility for Children's Services, together with three Members of each of the London Borough of Richmond and the Royal Borough of Windsor and Maidenhead.

Purpose of the Joint Committee

6.1.2 The London Borough of Richmond upon Thames, the Royal Borough of Kingston upon Thames and the Royal Borough of Windsor and Maidenhead have established the Joint Committee pursuant to powers under the Local Government Acts 1972 and 2000. The Joint Committee shall be known as "The Achieving for Children Joint Committee".

6.1.3 The Joint Committee will discharge functions on behalf of all three boroughs ~~insofar as they relate to the ownership of jointly owned local authority company "Achieving for Children"~~: with regards to dispute resolution and will be convened as required.

6.1.4 The Joint Committee is not a self-standing legal entity but part of its constituent authorities. Any legal commitment entered into pursuant of a decision of the Joint Committee must be made by either or all of the authorities which will be indemnified appropriately.

6.1.5 These Terms of Reference govern the conduct of meetings of the Joint Committee and except, where expressly stated otherwise, take precedence over each Borough's relevant Constitutional provisions. The Joint Committee may vary the Terms of Reference rules as it considers appropriate.

Definitions

6.1.6 Any reference to Access to Information legislation shall mean Part VA of the Local Government Act 1972 (as amended) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as amended).

Functions

6.1.7 The Joint Committee will discharge functions on behalf of all three Council's with regards solely dispute resolution in relation to matters concerning the agreement. ~~The Joint Committee will discharge on behalf of all three boroughs the functions listed below insofar as they relate to the ownership of local authority company "Achieving for Children". The Joint Committee will decide on behalf of each Council to:~~

- ~~• Enter into any arrangement, contract or transaction resulting in expenditure either with a capital value greater than £10,000 or revenue value greater than~~

~~£10 million. Any expenditure of such revenue by the Company being less than £10 million shall be subject to the Company's own financial regulations and shall be subject to prior approval within the Business Plan and operating revenue budget, which shall be approved by the Members in accordance with the Reserved Matters:~~

- ~~● Enter into any arrangement, contract or transaction where the Company is providing services to third parties without following the Trading Opportunity Evaluation Process as produced by the Members. Such arrangements, contracts or transactions shall also be subject to prior approval within the Business Plan, which shall be approved by the Members in accordance with the Reserved Matters:~~
- ~~● Enter into any borrowing, credit facility or investment arrangement (other than trade credit in the ordinary course of business) that has not been approved by the Members under the Financial Plan:~~
- ~~● Appoint or remove any auditor of the Company:~~
- ~~● Adopt or amend the Business Plan in respect of each financial year, which for the avoidance of doubt shall include the adoption and amendment of an operating revenue budget for the financial year to which it relates:~~
- ~~● Adopt or amend the Financial Plan:~~
- ~~● Enter into any arrangement, contract or transaction within, ancillary or incidental to the ordinary course of the Company's business or is otherwise than on arm's length terms:~~
- ~~● Deal with any surpluses of the Company:~~
- ~~● Appoint or remove any Company Directors (from the Achieving for Children Board):~~
- ~~● Agree any terms for any Directors (but for the avoidance of doubt this does not include the terms and conditions of employment of Executive Directors as defined in the Articles of Association of the Company):~~
- ~~● Agreeing changes in employment terms and conditions which would be inconsistent with the National Joint Council National Agreement on Pay and Conditions of Service and any changes to the pay and grading structure of the chief executive post of the Company:~~

~~6.1.8 The Joint Committee will be responsible for setting out the expectations and ambitions of the three Council's as owners of "Achieving for Children".~~

Membership

6.1.9 There will be nine elected members of the Joint Committee, three appointed

from each Borough. Appointments will be made in line with each Authority's governance arrangements.

- 6.1.10 The appointments should include the Leader of each Council and a Member whose portfolio areas include responsibility for Children's Services.
- 6.1.11 Appointments will be made for a maximum period not extending beyond each Member's remaining term of office as a Councillor.
- 6.1.12 As nominees of their respective Councils, members of the Joint Committee are governed by the provisions of their own Council's Codes and Protocols including the Code of Conduct for Members and the rules on Disclosable Pecuniary Interests.
- 6.1.13 Each authority will utilise existing mechanisms for substitution as laid down in their own Standing Orders/Procedure Rules

Chair

- 6.1.14 Each Council will appoint one Member as a Co-Chair each of whom, in rotation, shall preside over meetings of the Joint Committee.
- 6.1.15 Meeting venues shall rotate between the Council's main offices with the Co-Chair from the authority which is hosting the meeting presiding over the meeting. Where the host Co-Chair is not present, the Joint Committee shall appoint an alternate Co-Chair from amongst its number to preside over the meeting.

Sub-Committees

- 6.1.16 The Joint Committee may establish sub-committees to undertake elements of its work if required and subject to the approval of each of the constituent authorities.

Delegation to Officers

- 6.1.17 The Joint Committee may delegate specific functions to officers of any of the Boroughs.
- 6.1.18 Any such delegation may be subject to the requirement for the officer to consult with or obtain the prior agreement of an officer (or officers) of the other boroughs.
- 6.1.19 It may also be subject to the requirement for the officer with delegated authority to consult with the Co-Chairs of the Joint Committee before exercising their delegated authority.

Administration

- 6.1.20 Organisational and clerking support for the Joint Committee will be provided for by the host authority. ~~Organisational and clerking support for the Joint~~

~~Committee will be provided on an annual rotational basis or longer if agreed by all three Councils.~~

Budget

6.1.21 The Joint Committee will not have an allocated budget.

Agenda Management

6.1.22 All prospective items of business for the Joint Committee shall be agreed by the Chief Executives of all three Councils or their representatives, following consultation with the AfC Management Team.

6.1.23 Where a decision of the Joint Committee does not apply to all three Boroughs, the delegation of functions to the Joint Committee is limited to the Borough to which the decision applies.

6.1.24 To comply with Access to Information legislation in the publication of agendas including Forward Plan requirements, those functions delegated to the Joint Committee for determination and defined as key decisions on behalf of Richmond and the Royal Borough of Windsor and Maidenhead must be included in the Forward Plan.

6.1.25 Although not legally required for Kingston under the Committee System Governance Arrangements, a Forward Plan has been maintained and notice will be given therein.

Meetings

6.1.26 The Joint Committee will meet as and when required for the purposes of fulfilling its function with regards to dispute resolution ~~to fulfil its functions and will determine a programme of meetings before the start of each Municipal Year to be included in the Calendar of Meetings for all three Authorities.~~

6.1.27 The quorum for a meeting of the Joint Committee shall be at least two members from each Borough.

6.1.28 Access to meetings and papers of the Joint Committee by the Press and Public is subject to Part VA of the Local Government Act 1972 (as amended) and Part 2 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Notice of Meetings

6.1.29 The host authority clerk of the Joint Committee will give notice to the public of the time and place of any meeting in accordance with the Access to Information requirements.

6.1.30 At least five clear working days in advance of a meeting the host authority clerk of the Joint Committee will publish the agenda via the website of the host authority and distribute a copy of the papers to all Members of the

Committee. Five Clear Days does not include weekends or national holidays and excludes both the day of the meeting and the day on which the meeting is called.

Public Participation

6.1.31 Unless considering information classified as “exempt” or “confidential” under Access to Information Legislation, all meetings of the Joint Committee shall be held in public.

6.1.32 An agenda item to last no longer than 15 minutes will be included on each agenda to hear public representations and questions in relation to items on the agenda that are not exempt under paragraph 6.1.31 above (paragraph 13.1 of Schedule 3 to the Inter Authority Agreement) Notification must be given to the host authority in advance of the meeting indicating the matter to be raised, by 12 noon on the last working day before the meeting. An agenda item to last no longer than 30 minutes will be included on each agenda to hear public representations and questions. Notification must be given in advance of the meeting indicating the matter to be raised, by 12 noon on the last working day before the meeting.

6.1.33 Each deputation will last no longer than 5 minutes and only 3 deputations will be permitted (i.e. the first three to register with the host authority in advance of the deadline). Where the number of public representations exceed the time allowed, a written response will be provided or the matter will be deferred to the next meeting of the Joint Committee.

Member Participation

6.1.34 Any member of each Council who is not a member of the Joint Committee may ask a question or address the Committee with the consent of the Co-Chair of the meeting at which they wish to speak.

Business to be Transacted

6.1.35 Standing items for each meeting of the Joint Committee will include the following:

- Public participation
- Apologies for absence
- Declarations of Interest
- Minutes of the Last Meeting
- Substantive items for consideration

6.1.36 The Co-Chair may vary the order of business and take urgent items as specified in the Access to Information Requirements at their discretion.

6.1.37 An item of business may not be considered at a meeting unless:

- A copy of the agenda included the item (or a copy of the item) is open to inspection by the public for at least five clear days before the meeting; or
- Where the meeting is convened at shorter notice from the time the meeting is convened; or
- By reason of special circumstances which shall be specified in the minutes the Co-Chair of the meeting (following consultation with the other Co-Chairs) is of the opinion that the item should be considered at the meeting as a matter of urgency

6.1.38 “Special Circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made at a later meeting allowing the proper time for inspection of documents by the public as well as why the item or report could not have been available for inspection for five clear days before the meeting.

Extraordinary Meetings

~~6.1.39 Arrangements may be made following consultation with all three Co-Chairs to call an extraordinary meeting of the Joint Committee.~~

~~6.1.40 The business of an extraordinary meeting shall be only that specified on the Agenda.~~

Cancellation of Meetings

6.1.41 If in the event a dispute is resolved prior to the meeting of the Joint Committee called to resolve the issue, after consultation with all three Co-chairs, the meeting will be cancelled. Meetings of the Joint Committee may, after consultation with all three Co-Chairs, be cancelled if there is insufficient business to transact or some other appropriate reason warranting cancellation. The date of meetings may be varied after consultation with all Co-Chairs in the event that it is necessary for the efficient transaction of business.

Rules of Debate

6.1.42 The rules of debate in operation in the authority which is hosting the meeting shall apply.

Request for Determination of Business

6.1.43 Any member of the Joint Committee may request at any time that the Joint Committee move to vote upon the current item of consideration

- The Joint Committee move to vote upon the current item of consideration.
- ~~• The item be deferred to the next meeting.~~

- ~~• The item be referred back to the relevant Chief Executive for further consideration by the Council~~
- ~~• The meeting be adjourned.~~

6.1.44 In the event that an unanimous decision cannot be reached then Part 2 and/or Part 3 of the Dispute Resolution Procedure (Schedule 7 of the Inter Authority Agreement) shall apply.

Urgency Procedure

6.1.44 Where all Co-Chairs of the Joint Committee are of the view that an urgent decision is required in respect of any matter within the Joint Committee's Terms of Reference and it cannot wait until an Ordinary Meeting of the Joint Committee has been called and notice given under paragraphs 6.1.29 and 6.1.30 (Notice of Meetings) above (paragraph 12 (Notice of Meetings) of the Inter Authority Agreement as amended) then arrangements will be made to call an urgent meeting of the Joint Committee. and that decision would not reasonably require the calling of an Extraordinary Meeting of the Joint Committee to consider it and it cannot wait until the next Ordinary Meeting of the Joint Committee. then they may authorise in writing the Chief Executive of Achieving for Children to take such a decision following consultation with the Co-Chairs. Decisions taken in these circumstances shall not be subject to any of the Council procedures.

Voting

~~6.1.45 Each elected member will be entitled to one vote.~~

~~6.1.46 Where there is an equality of votes and the matter cannot be resolved, the conflict resolution mechanism will be implemented.~~

~~6.1.47 The conflict resolution mechanism states that:~~

- ~~• The matter will be referred back to the Chief Executives of all three Authorities for further consideration.~~
- ~~• After further consideration has taken place, the matter will be placed on the agenda for the next available meeting of the Joint Committee for determination.~~
- ~~• If on this second occasion there is still an equality of votes the Chair can exercise a casting vote to ensure that a decision is made.~~

6.1.45 With regards the Joint Committee's function in the resolution of disputes under the conflict resolution mechanism, each elected member will be entitled to one vote.

6.1.46 Where there is an equality of votes and the matter cannot be resolved then Part 2 of the Dispute Resolution will be engaged.

Minutes

6.1.48 At the next suitable meeting of the Joint Committee, the Co-Chair presiding will move a motion that the minutes of the previous meeting be agreed as a correct record. The meeting may only consider the accuracy of the minutes.

6.1.49 Once agreed, the Co-Chair presiding at the meeting will sign the minutes.

Exclusion of Public and Press

6.1.50 Members of the public and press may only be excluded from a meeting of the Joint Committee either in accordance with the Access to Information requirements or in the event of disturbance.

6.1.51 A motion may be moved at any time for the exclusion of the public from the whole or any part of the proceedings. The motion shall specify by reference to Section 100(A) Local Government Act 1972 the reason for the exclusion in relation to each item of business for which it is proposed that the public be excluded. The public must be excluded from meetings whenever it is likely, in view of the nature of business to be transacted, or the nature of the proceedings that confidential information would be disclosed.

6.1.52 If there is a general disturbance making orderly business impossible, the Co-Chair may adjourn the meeting for as long as they think it is necessary.

6.1.53 To comply with the Executive Arrangements (Access to Information) Regulations 2012 on Richmond's and Windsor and Maidenhead's behalf, all background papers will be published as part of the Joint Committee agenda and be made available to the public via the website of each authority.

Overview and Scrutiny

~~6.1.54 Decisions of the Joint Committee will be subject to scrutiny and Call-In.~~

~~6.1.55 On the publication of the minutes of a meeting of the Joint Committee, 5 clear days must elapse (not including the date of publication and weekend days and bank holidays) before decisions can be implemented.~~

~~6.1.56 Decisions of the Joint Committee will be subject to the existing Call-In arrangements operating in each of the Boroughs as outlined in their respective Constitutions.~~

~~6.1.57 Where a decision is called in, arrangements will be made at the earliest opportunity within the Borough where the Call-In had taken place for it to be heard.~~

~~6.1.58 The body hearing the Call-in would be able to take the following courses of Action:~~

- ~~• Take no further action (decision takes effect)~~
- ~~• Refer back to the decision-maker (Joint Committee) for reconsideration~~

- ~~Refer to the Full Council meeting of the relevant authority (only if deemed to be contrary to the budget and / or policy framework of the relevant authority in line with the delegations to the Joint Committee):~~

~~6.1.59 Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call in procedures of the Council concerned have been concluded.~~

6.1.54 With regards the Royal Borough of Kingston upon Thames and the London Borough of Richmond upon Thames, decisions of the Joint Committee will not be subject to scrutiny and call-in and paragraph 24 of Schedule 3 of the Inter Authority Agreement does not apply.

6.1.55 With regards the Royal Borough of Windsor and Maidenhead, decisions of the Joint Committee which are defined as Executive Decisions will be subject to scrutiny and call-in. Call-in provisions will only apply in the event that the decisions of the Joint Committee are contrary to the original decision of the Cabinet of the Royal Borough of Windsor and Maidenhead.

6.1.56 For any Joint Committee meeting including Executive Decisions as defined by the Royal Borough of Windsor and Maidenhead, the minutes will be published within two working days. On the publication of the minutes of a meeting of the Joint Committee, 5 clear working days must elapse (not including the date of publication and weekend days and bank holidays) before decisions can be implemented on the part of the Royal Borough of Windsor and Maidenhead.

6.1.57 Decisions of the Joint Committee which are defined as Executive Decisions will be subject to the "call in" arrangements operating in the Royal Borough of Windsor and Maidenhead as set out in its constitution.

6.1.58 Where a decision is called in, arrangement will be made at the earlier opportunity within the Royal Borough of Windsor and Maidenhead for it to be heard.

6.1.59 Any decision called in for scrutiny before it has been implemented shall not be implemented until such time as the call-in procedures of the Royal Borough of Windsor and Maidenhead have been concluded.