

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE –
1ST JULY 2008

SUBMITTED TO THE COUNCIL MEETING –22nd July 2008

(To be read in conjunction with the Agenda for the Meeting)

* Mr F N J Davies (Chairman)	Cllr Mrs J Maines
* Cllr M R Goodridge (Vice-Chairman)	* Cllr D J Munro
* Cllr R A Gordon-Smith	* Cllr J M Savage
* Cllr V Duckett	* Cllr R Terry
Miss K E Heenan	Mr D F Wheatley
* Cllr Mrs King	

*Present

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1)

Mr F N J Davies was elected as Chairman of the Standards Committee for the municipal year 2008-09.

2. APPOINTMENT OF VICE-CHAIRMAN (Agenda Item 2)

Councillor M R Goodridge was elected as Vice-Chairman of the Standards Committee for the municipal year 2008-09.

3. APOLOGIES FOR ABSENCE (Agenda Item 4)

Apologies for Absence were received from Miss K E Heenan, Mr D F Wheatley and Councillor Mrs J Maines.

4. MINUTES (Agenda Item 5)

The Minutes of the Meeting held on 14th February 2008 were confirmed and signed.

5. DISCLOSURE OF INTERESTS (Agenda Item 6)

There were no declarations of interest raised under this heading.

PART I – RECOMMENDATIONS TO COUNCIL

6. POLICIES AND PROCEDURES FOR THE LOCAL ASSESSMENT AND DETERMINATIONS OF COMPLAINTS ABOUT MEMBER CONDUCT
(Agenda Item 9)

- 6.1 New regulations came into effect on 8 May 2008 that require local authorities to set up a system and policies for the local assessment, investigation and determination of complaints received about breached of the Member Code of Conduct.

- 6.2 The Standards Committee received previous reports about the changes to the national system to deal with complaints about member conduct. Two training sessions have also been held for Standards Committee Members.
- 6.3 At the training sessions, the provisions of the Standards Committee (England) Regulations 2008 were outlined. These give a number of areas where local authorities need to set out their own policies, which must be made with regard to the Standards Board's guidance. Proposals made to the Council are intended to cover these areas, and are based upon Standards Committee Members' comments and preferences expressed at the training sessions.
- 6.4 Where discretion is given to authorities, it is in the interests of natural justice that should changes be made to policies and procedures, they should not be applied to complaints received before the changes take effect.

Making a complaint – leaflet and publicity

- 6.5 In accordance with earlier decisions by the Standards Committee, a separate complaints form is being produced and a proof copy was presented to the Standards Committee, on which comments were made. The Committee had also expressed the wish to have posters displayed at various Council offices and other premises, a notice placed on the website, and a notice placed in local papers. The Committee had also asked for complaints leaflets to be placed at the same locations.
- 6.6 The website is in the process of being updated, the notice has been placed in local papers and posters are being prepared. The Standards Committee has also asked that the parish and town councils display the posters and make complaints forms available from their own premises.

Assessment and review panels

- 6.7 In order to maintain objectivity in the process, the Regulations require that a Sub-Committee drawn from the Standards Committee's membership shall assess complaints. The Sub-Committee shall consist of an independent member (who will chair), plus at least two other members, one of whom shall be a town/parish representative if the complaint concerns a town/parish councillor (in the case of dual-hatted members, the complaint would also have to concern the town/parish council).
- 6.8 A similar Sub-Committee is required for the review of a decision by the Assessment Sub-Committee that a complaint should not be pursued, should the complainant decide to submit an appeal against that decision. The same issues apply to the membership of the Review Sub-Committee as apply to the Assessment Sub-Committee.
- 6.9 In order to facilitate the setting up of both Assessment and Review Sub-Committees, at the meeting of the Standards Committee it was agreed that,

the Committee should be divided into two sections as follows in order to ensure that there was different membership on the two Sub-Committees:

Section 1	Section 2
Mr Davies	Mr Wheatley
Miss Heenan	Cllr Terry
Cllr Morris	Cllr Mrs Maines
Cllr Duckett	Cllr Goodridge
Cllr Gordon-Smith	Cllr Munro
Cllr Mrs King	Cllr Savage

- 6.10 The Standards Committee felt that the membership should be fixed, but, in a situation where the correct composition of the Assessment Sub-Committee cannot be reached, the Monitoring Officer should be given delegated responsibility to change this Membership. The Committee also felt that the Sub-Committees should be reappointed at the first meeting of the municipal year.
- 6.11 The first named Member on each Section would chair the meetings and select the Members to serve on the Sub-Committee each time, in consultation with the Monitoring Officer.
- 6.12 In dealing with an appeal, the Monitoring Officer will consider any fresh evidence supplied by the complainant and consider whether it constitutes a new complaint. The Monitoring Officer will consult the chairman of the original Assessment Sub-Committee when considering whether it should be treated as a new complaint or an appeal.
- 6.13 In the interests of member training and experience, the Committee again expressed the view that membership of the sub-committees should be rotated. It was suggested that this should be implemented subject to the workloads. It is a requirement of the Regulations that separate sub-committees should consider the assessment and review of the same complaint.
- 6.14 The need to establish Sub-Committees for assessment and review of complaints must be reflected in the Council's Constitution, which previously only contained reference to Hearings panels (to determine a complaint after investigation). Such Hearings panels will still be required. Amendment of the Constitution is the subject of a further report on the agenda.
- 6.15 In the past, Hearings panels have been held in public, and it is envisaged that this will continue to be the case (with exception being made to any material that may be classified as exempt in accordance with the Local Government Act 1972 and any subsequent amendments). However, initial assessment decisions and any subsequent review of decisions to take no further action on a complaint must be conducted in closed meetings.

Notifying subject members about complaints

6.16 The Regulations require the local assessment of complaints to be as open and transparent as possible. The Standards Board's guidance acknowledges that there may be circumstances when it may not be prudent to notify the member about whom a complaint is made that the complaint has been received. This is to be at the discretion of the Monitoring Officer. In making such a decision, Waverley's Monitoring Officer will consult the chairman of the Assessment Sub-Committee (and subsequent review sub-committee chairman as appropriate). It is proposed that the issues that will be considered in making the decision will be:

- Preservation of evidence
- Health and safety, including that of the complainant
- Health and well being of the subject member(s)
- Wider public interest
- Prejudice to any investigation that may have to be undertaken
- Prejudice to any other investigation currently in progress.

6.17 Similar discretion is given to the Committee regarding the decision of the assessment and review sub-committees. The same issues would appear to be relevant, although discussions may raise additional concerns that would also be taken into account.

Assessment of complaints

6.18 Each complaint must be assessed against the Council's criteria. Annexe 1 contains draft criteria for the Council's consideration and approval.

6.19 The Council may request that the Monitoring Officer makes a pre-assessment report and enquiries. The Committee may find this helpful. Guidance states that this should extend to matters of substance and fact, and not opinions. The reports should be restricted to:

- Establish the jurisdiction of the Committee
- Identification of the relevant parts of the Code
- Summary where a complaint is lengthy
- Further information that is readily available such as public records.

6.20 The Monitoring Officer is required to undertake a risk assessment in respect of investigations. This is to determine the risk of the investigation of a complaint being prejudiced by the subject member being informed of all the details of the complaint. The Monitoring Officer will advise the panel as appropriate. Vexatious complaints and complainants need special consideration. Arrangements are required to ensure they are handled and considered in the appropriate manner. Annexe 2 contains a draft policy for the Council's consideration and approval.

Complaints that indicate criminal offences may have been committed

- 6.21 In accordance with the Council's Anti-Fraud and Corruption Strategy and the Whistleblowing Policy, if a complaint suggests that there may have been a criminal offence, the matter will be referred to the police at the appropriate stage. For information, these Council documents are attached at Annexe 3. They were recently revised by the Executive at its meeting in May 2008.

Requests for confidentiality by the complainant

- 6.22 A complainant has the right to request that their details be kept confidential, although the Standard Board guidance states that such requests should only be granted in exceptional circumstances and at the discretion of the Assessment Sub-Committee. This would include disclosure to the subject member(s). It is proposed that such requests should be considered in the light of the following considerations:
- Personal safety of the complainant
 - Nature and circumstances of the complaint
 - Likelihood that anonymity can be preserved
 - Identity and relationship of the complainant with the subject member(s)
 - Health of the complainant.

Anonymous complaints

- 6.22 The guidance from the Standards Board is that anonymous complaints may be considered, but as with other areas where there is some discretion, the Council must set out a policy. A draft policy is set out at Annexe 4 for consideration and approval.

Withdrawal of a complaint

- 6.23 Should a request be received from a complainant that their complaint be withdrawn, the Assessment Sub-Committee must consider the wider public interest before deciding what to do. If a request is received before the complaint has been assessed, due process must be followed and the request should be considered alongside the complaint by the Assessment Sub-Committee.
- 6.24 Criteria need to be developed against which a request to withdraw should be considered. The following issues are proposed:
- Public interest considerations given the issues at stake
 - Practicalities of conducting an investigation without involving the complainant
 - Any indication that the complainant has been coerced at any stage.
- 6.25 If the request is received after investigation has started, it is suggested that the original Assessment or Review sub-committee, as appropriate, that made the decision to investigate, should consider it. In considering the request it will not be possible to ignore the seriousness, nature and evidence so far obtained. However, if the evidence were presented at this stage then it would be necessary to ensure that any eventual hearing were conducted by

members not involved in the Assessment/Review Sub-Committee concerned (in order to maintain objectivity).

6.26 The criteria for assessing any request to withdraw a complaint received after an investigation has commenced are proposed as follows:

- Public interest considerations given the issues at stake
- Preliminary findings (summary level only) and whether it appears a breach has occurred
- Whether the subject member has been given all the details of the complaint, including the complainant's details
- Resources needed to complete the investigation
- Role and status of the subject member.

Conclusion

6.27 The change of national procedures to a locally-based system of dealing with complaints, from start to finish, may involve the Committee in considerably more work than has been the case over recent years. It also involves consideration of many points of detail, and the guidance from the Standards Board has greatly assisted in the preparation of this report.

6.28 The Committee needs to consider the various issues raised in this report and to approve criteria and policies as necessary in order to implement fully and properly the new Regulations. Lessons learned from experience will be invaluable in refining the Council's policies, procedures and practices in future years.

6.29 The Committee accordingly

RECOMMENDS that the Council

1. **Approves the Assessment Criteria, as set out in Annexe 1;**
2. **Adopts the policy on vexatious complaints, as set out at Annexe 2;**
3. **Approves the criteria for deciding whether to notify a member that a complaint has been received (both pre- and post-assessment) as set out at paragraph 6.16;**
4. **Approves the criteria for agreeing to a complainant's request for confidentiality as set out at paragraph 6.22;**
5. **Adopts the policy for treatment of anonymous complaints as set out at Annexe 4;**
6. **Approves the criteria for considering requests for withdrawal of complaints as set out in paragraph 6.23 onwards;**
7. **Asks town and parish councils to display posters and complaints leaflets at their public buildings;**
8. **Approves the membership of the assessment and review and hearing sub-committees, as noted in paragraph 6.8 to be reviewed**

at the first meeting of the Standards Committee in the municipal year; and

- 9. Gives the Monitoring Officer, or Deputy Monitoring Officer, in his/her absence, Delegated Authority, in exceptional circumstances, to change the membership of the list of Members from whom the Sub-Committee may be formed to ensure its correct composition in determining a complaint.**

Background Papers (DCEx)

There are no background papers (as defined by section 100D(5) of the Local Government Act 1972) relating to this report.

7. REVIEW OF THE CONSTITUTION REGARDING THE STANDARDS COMMITTEE (Agenda Item 10)

- 7.1 Following the changes to Regulations regarding the local assessment, investigation and determination of complaints about member conduct, changes are required to the Council's Constitution.
- 7.2 The current Constitution reflects the roles and responsibilities of the Standards Committee as existed prior to the 8 May 2008, when the Standards Committee (England) Regulations 2008 came into effect. Changes are now required to include the new duties to receive, assess, investigate and determine complaints about member conduct.
- 7.3 The current section of the Constitution is attached at Annexe 5. It contains draft changes made by your officers to reflect the new additional duties. The Standards Committee was asked to consider the changes and was invited to make amendments as it saw to be appropriate. The text to be deleted is struck-through, and new text is underlined.
- 7.4 The Standards Committee has indicated that it would like sub-committee membership to be pre-determined. However, there may be occasions when members feel they cannot serve on a sub-committee to consider specific complaints, such as if they feel that they have a conflict of interests. Therefore flexibility has been built in to the sub-committee membership, giving the Monitoring Officer (or Deputy Monitoring Officer, in his absence) the authority to appoint substitute members if there is reason to do so.
- 7.5 This is also an opportunity to clarify the term of the office for Independent Appointees, The Constitution currently refers to their term of office being three/four years. The Standards Committee has proposed that this be made more definitive by stating 'four years' only and the Committee will, at its next meeting, consider whether staggered terms of office for Independent Members would assist continuity of experience and whether the constitution should be amended to specify this.

- 7.6 The Constitution needs to give effect to the new Regulations. The relevant part relating to the Standards Committee will need amendment accordingly, and the text at Annexe 5 contains suggested wording amendments for the Council's consideration and comment.

RECOMMENDS that

- 10. the proposed changes to the Constitution be approved as attached at Annexe 5.**

Background Papers (DCEX)

There are no background papers (as defined by section 100D(5) of the Local Government Act 1972) relating to this report.

8. APPOINTMENT OF A THIRD TOWN AND PARISH REPRESENTATIVE TO THE STANDARDS COMMITTEE (Agenda Item 11)

- 8.1 The Committee was reminded that, at its last meeting, it was agreed that it should appoint a third representative of a Town or Parish Council. Since that meeting, the Council received one nomination from Wonersh Parish Council. Having considered the application, Members agreed they should recommend to Council that Cllr R Morris of Wonersh Parish Council be appointed to the Standards Committee.

- 8.2 The Committee accordingly

- 11. RECOMMENDS that the Council approves the appointment of Councillor R Morris as the third Town and Parish representative of the Standards Committee.**

Background Papers (DCEX)

There are no background papers (as defined by section 100D(5) of the Local Government Act 1972) relating to this report.

PARTS II AND III – MATTERS OF REPORT

Background Papers

The background papers relating to the following reports in Parts II and III are as specified in the Agenda for the meeting of the Standards Committee.

Part II – Matters reported in detail for the information of the Council

9. CHAIRMAN'S/MONITORING OFFICER UPDATE (Agenda Item 8)

The Chairman welcomed the new Members to the first meeting of the Standards Committee in the municipal year 2008/09. The Chairman

suggested that, at the next meeting, the Committee should consider appointing a fourth Independent Member and should consider a staggered term of appointment for Independent Members. This would be put on the agenda for the next meeting.

The Monitoring Officer advised Members that Mrs Emma McQuillan, Democratic Services Manager, had been appointed as Deputy Monitoring Officer to deal with issues in his absence. The Monitoring Officer also advised Members that he had given various pieces of advice and guidance since the last meeting both for Borough and Town and Parish Councils.

The Monitoring Officer informed the Committee that Waverley's Planning Committees and processes continued to be a key issue for Members. There had been several occasions when the Monitoring Officer had been asked for guidance. In particular, the East Street planning application had generated a number of enquiries, and discussions with both Members and officers.

The Committee was reminded that it was important to ensure that Independent Appointees had signed the Acceptance of Office and the Waverley Code. Town and Parish representatives would also have to sign up to the Waverley Code regardless of having signed up to their own authorities codes. Forms would be circulated by Committee Services shortly.

The Committee noted that a public notice was placed in the local newspapers announcing the new arrangements for dealing with complaints. This was in accordance with the Standards Board Guidance.

RESOLVED that the updates from the Chairman and Monitoring Officer be noted.

Part III – Brief summaries of other matters dealt with

There were no matters falling within this category.

The meeting commenced at 5.30pm and concluded at 6.46pm

Chairman

ANNEXE 1

Code of Conduct complaints assessment criteria

Initial tests

Before assessing a complaint, the assessment sub-committee must be satisfied that the complaint meets the following tests:

- It is a complaint against one or more named members of Waverley Borough Council or of a town or parish council in Waverley.
- The named member was in office at the time of the alleged misconduct, and the Code of Conduct was in force at the time.
- The complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant will be informed that no further action will be taken.

Assessment criteria

The assessment sub-committee of the Standards Committee will use the following criteria when considering what action, if any, should be taken in respect of a complaint.

- The assessment sub-committee will need to be satisfied that the complainant has supplied enough information before deciding whether the complaint should be referred for investigation or other action. If the sub-committee considers that the complainant has not supplied enough information, no further action will be taken on the complaint.
- If the complaint is about someone who is no longer a member of Waverley, but a member of another authority, the assessment sub-committee will refer the complaint to the standards committee of that other authority.
- If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct, or has been the subject of an investigation by other regulatory authorities, it is likely that the assessment sub-committee will decide that there is nothing more to be gained by further action being taken.
- The assessment sub-committee is unlikely to refer a complaint for investigation or further action where the alleged misconduct took place more than three years ago. This is because of the increasing unreliability of evidence (particularly witness statements) with the passage of time. There is also likely to be very little benefit in taking action in response to something that took place a long time ago.
- The seriousness of the complaint will be a key factor in the assessment sub-committee's consideration of the matter, and any complaint that is considered to be too trivial will not be referred for investigation or further action.
- The assessment sub-committee will not refer complaints that appear to be malicious, politically motivated or 'tit for tat', for investigation or further action.
- When deciding whether a complaint warrants an investigation, the assessment sub-committee will bear in mind the costs that this will involve, both

in terms of spending public money and the time of officers and elected members. It is therefore unlikely that relatively minor complaints will be referred for investigation.

ANNEXE 2

Code of Conduct complaints – policy on vexatious complainants

The Standards Committee of Waverley Borough Council is committed to dealing with all complaints about the alleged misconduct of members, fairly and impartially. Complaints will be taken seriously and will be dealt with appropriately.

However, occasionally there may be complainants, who because of their conduct, will be regarded as vexatious complainants. Examples of such behaviour include:

- Repeated complaints making the same or broadly similar complaints against the same member or members about the same alleged incident
- Use of aggressive or repetitive language of an obsessive nature
- Repeated complaints that disclose no potential breach of the Code
- Where it seems clear that there is an ulterior motive for a complaint or complaints
- Where the complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted.

In exceptional circumstances the Council may take action to limit the complainant's contact with its offices. The decision to restrict access to the Council will be taken by the Monitoring Officer, in consultation with the Chair of the Standards Committee, and will only be taken following a warning to the complainant that such action is about to be taken. Any restrictions on communications with the Council will be appropriate and proportionate and may include:

- requesting contact by letter only ie no email communication will be accepted;
- requiring contact to take place with a named officer, usually the Monitoring Officer;
- restricting telephone calls to specified days and times; and/or
- asking the complainant to enter into an agreement about their future contacts with the Council.

In all cases, where someone is regarded as a vexatious complainant, the Monitoring Officer will write to the complainant to explain why his or her behaviour is considered to fall into that category, what action will be taken by the Council and the duration of that action. The complainant will also be told how they can challenge the decision if they disagree with it. Any restrictions imposed on a person who is considered to be a vexatious complainant will be monitored and reviewed on a six monthly basis.

People who have come under the vexatious complainants policy will not be prevented from submitting a new allegation, which will be considered by the assessment sub-committee provided the allegation meets the initial tests set out in the regulations.

WAVERLEY BOROUGH COUNCIL

ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY

1 Introduction

1.1 Waverley Borough Council is committed to maintaining an environment that is based on the prevention of fraud and corruption whether it is attempted on the Council from outside or within, and is committed to an effective Anti-Fraud and Anti-Corruption Strategy designed to:

- encourage prevention;
- promote detection; and
- identify a clear pathway for investigation of fraud and corruption.

1.2 The Council is dedicated to making sure that the opportunity for fraud and corruption is reduced to the lowest level of risk given the practicalities involved. Where there is the possibility of fraud, corruption and other areas requiring investigation, the Council will deal with it in a professional manner.

1.3 The Council expects all people and organisations with whom it is in any way associated to be honest and fair in their dealings with us, our clients and customers. Everyone should be prepared to provide any help, information and support needed to help combat fraud and corruption.

1.4 The Council's expectations on propriety and accountability is that our members and employees lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

1.5 The Audit Commission has a responsibility to report on the adequacy of the Authority's anti-fraud and corruption arrangements as well as the power to carry out an independent investigation into fraud and corruption.

2 Definition of Fraud and Corruption

2.1 For the purpose of this policy:-

"Fraud" is defined as "the intentional distortion of financial statements or other records by persons internal or external to the authority carried out to conceal the misappropriation of assets or other gain".

In addition, "fraud" can also be defined as *the intentional distortion of financial statements or other records by persons internal or external to the authority carried out to mislead or misrepresent the truth.*

"Corruption" is defined as "the offering, giving or soliciting or acceptance of an inducement or reward which may influence the action of any person".

It will also be taken to include failure to disclose an interest in order to gain financial or other pecuniary benefit.

3 Prevention

3.1 The Council has carefully considered its corporate governance arrangements within the authority to regulate the actions of Members and employees and to ensure that appropriate procedures are in place to prevent fraud and corruption. A range of policy documents has been in existence for a number of years and have been used to regulate and govern the Council's business dealings. These include: -

- Financial Regulations
- Contract Procedure Rules (CPRs)
- Waverley Code of Conduct for Staff
- Public Interest Disclosure (Whistle-blowing) Policy for Staff
- Waverley Local Code of Conduct for Members
- The Council's Constitution
- Employees' Conditions of Service
- IT Code of Conduct
- Scheme of Delegation
- Any other Codes of Conduct adopted by The Council
- Members' Register of Interests and gifts and hospitality
- Staff register of gifts and hospitality.

These documents receive periodic review and are updated as appropriate.

3.2 As part of the requirements of the Codes of Conduct, Members and employees are reminded each year to declare any interests that they may have.

3.1 Individual departments are responsible for ensuring that there are adequate and appropriate controls in place to minimise the risk of fraud and corruption occurring. Examples include accounting control procedures, working manuals and operating procedures. Heads of Service are required to ensure that all staff have access to these rules and regulations and that staff receive suitable training in respect of them.

3.2 Heads of Service must ensure that suitable levels of internal controls are included in working practices, particularly where there is a financial element. It is important that duties are organised so that no one person can carry out a complete transaction without some form of checking process by another person being built into the system. In addition to the formal rules mentioned above each manager has a responsibility to implement systems of internal control to

- ensure adherence to Council Policies and directives in order to achieve The Council's objectives;
- safeguard assets;
- secure the relevance, reliability and integrity of information, so ensuring as far as possible the completeness and accuracy of records; and

- ensure compliance with statutory requirements.

3.2 The Council must ensure that proper procedures are followed in full when employing new staff. Where possible, the previous employment records of anyone we are considering employing must be checked. In particular jobs where risk of fraud and corruption is greater, further checks are necessary such as Criminal Records Bureau disclosures. This applies to both temporary and permanent staff. The full procedures are as set out in the Council's Recruitment and Selection Procedures.

4 Combining with Others

4.2 The Council is committed to working and co-operating with other organisations to prevent organised fraud and corruption. Wherever possible, we will help and exchange information with other organisations to deal with fraud in accordance with appropriate legislation such as the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Acts 1998 and Regulation of Investigatory Powers Act 2000.

5 How the Council expects Members and employees to behave

5.1 The Council's Codes of Conduct for Members and employees set out an approach to work that is both honest and fair. Both Members and employees must act in line with the relevant Codes and the law at all times.

5.2 The Council is committed to tackling fraud and corruption in all areas. The Council recognises that both its staff and its Members are its ambassadors in its stance on fraud and corruption and they are therefore positively encouraged to raise any concerns that they may have on these issues. Such concerns will be treated in confidence and properly investigated. Victimising staff members or deterring them from raising a concern about fraud or corruption is a serious disciplinary matter. The authority's Public Interest Disclosure at Work (Whistle-blowing) Policy details the process that should be followed for reporting known or suspected fraud and corruption.

5.3 The Council will deal with all information fairly and confidentially. The Council will endeavour not to reveal the names of the people who give information unless their permission is given to do so.

5.4 The Council expects its Strategic Directors to deal firmly and efficiently with anyone who is responsible for fraud or corruption. The Chief Executive or Deputy Chief Executive in consultation with the Head of Internal Audit may refer matters to the Police if it is suspected that any criminal activity has been carried out.

5.5 The Council must ensure that any investigative process is not misused and, therefore, any abuse, such as raising unfounded malicious allegations, will be dealt with as a disciplinary matter.

5.6 If anyone is found to have breached these rules and regulations the appropriate formal action will be taken. This may include disciplinary action that could result in the ending of their employment with the Council (in respect employees) or referral to the Standards Board (in respect of elected members). It is the responsibility of the

Monitoring Officer to report matters concerning Member conduct to the Standards Committee.

6 Detecting and Investigating Fraud and Corruption

- 6.1 As the Council's Section 151 Officer, the Deputy Chief Executive has the overarching responsibility for the investigation of fraud and corruption. The Internal Audit Section (which has responsibility for all types of fraud and corruption investigations with the exception of housing benefit fraud) and the dedicated Benefit Investigations Team undertake this function.
- 6.2 All investigative work carried out by the Internal Audit Section will comply with the procedures contained in the Audit Manual and Fraud Response Plan. Investigating officers will receive the necessary training to carry out their work effectively. All proven cases of fraud and/or corruption will be reported to the Audit Committee and the Executive.
- 6.3 For cases relating to Housing and Council Tax Benefit fraud the action taken will follow the Local Government Fraud Manual, the Council's Housing Benefit Anti-Fraud Strategy and the Housing and Council Tax Benefit Fraud Prosecution Policy adopted by that service pertinent to relevant legislation. In all other instances of fraud, the action taken will follow the Council's corporate Prosecution Policy.
- 6.4 The Council believes that if it is to combat fraud and corruption effectively, it must pay due attention to prevention. It is therefore essential that clear rules and procedures are in place which members, employees, consultants and contractors must work within. This includes those that are set out in Paragraph 3.1.
- 6.5 The Council's Codes of Conduct, Whistle-blowing Policy and Financial Regulations require employees to report any suspected cases of fraud and corruption to the appropriate manager, or, if necessary, directly to the Head of Internal Audit. The Council's Whistle-blowing Policy provides full guidance on reporting procedures. Reporting cases in this way is essential to the anti-fraud and corruption strategy and makes sure that:
- Suspected cases of fraud and corruption are investigated properly
 - The fraud response plan is followed
 - There is a standard process for dealing with all suspected cases of fraud and corruption; and
 - People and their interests are protected.
- 6.6 It is acknowledged to be the responsibility of senior management to prevent and detect fraud and corruption. However it is often the alertness of employees, Members and the public to raise concerns that enables detection to occur and the appropriate action to take place when there is evidence that fraud or corruption may have been committed, or is in progress.

- 6.7 The Council's Whistle-blowing Policy is intended to encourage anyone to raise any concerns they may have. Employees reporting in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998).
- 6.8 The Head of Internal Audit will work with Strategic Directors and the Chief Executive to decide on the type and course of the investigation. This will include referring cases to the Police where necessary. The Council will prosecute offenders and invoke its disciplinary procedures where appropriate, ensuring that any internal proceedings do not prejudice any criminal case.

7 Training

- 7.1 The Council recognises that the continuing success of its Anti-Fraud and Anti-Corruption Strategy and its general credibility will depend largely on the effectiveness of programmed training and responsiveness of employees throughout the organisation. Therefore, proper training is essential, particularly for employees involved in internal control systems. However, the Induction Programme is used to give all staff a basic level of awareness.**
- 7.2 The investigation of fraud and corruption centres on the Council's Internal Audit Section and the Benefit Investigations Team. It is necessary, therefore, that employees involved in this work should be properly and regularly trained; the training plans of these employees will reflect this requirement.**

8 Conclusion

- 8.1 The Council is committed to tackling fraud and corruption whenever it happens within its business dealings. It will be robust in dealing with financial malpractice and will deal swiftly and thoroughly with any Councillor, member of staff, contractor or member of the public who attempts to defraud the Authority or who are thought to be corrupt. The Council's response will be as effective and organised as possible and will enact the principles included in this document.
- 8.2 The Council will continue to review its rules and procedures to ensure that this strategy document remains effective in the combat of fraud and corruption.**

WAVERLEY BOROUGH COUNCIL

WHISTLE-BLOWING POLICY

**FOR RESIDENTS (MEMBERS OF THE PUBLIC),
STAFF (EMPLOYEES),
CONTRACTORS, PARTNERS
AND COUNCILLORS**

CONTENTS

- 1. INTRODUCTION**
- 2. AIMS OF THE POLICY**
- 3. COUNCILS RULES AND PROCEDURES**
- 4. CONCERNS INVOLVING FRAUD AND CORRUPTION**
- 5. SAFEGUARDING**
- 6. HOW TO REPORT ANY CONCERNS**
- 7. HOW THE COMPLAINT WILL BE DEALT WITH**
- 8. CONTACT DETAILS**

Part A: A POLICY TO ENCOURAGE AND ENABLE ANYONE TO RAISE ISSUES OF CONCERN RELATED TO SUSPECTED IMPROPER CONDUCT IN THE CARRYING OUT OF THE COUNCIL'S BUSINESS.

Introduction

Waverley Borough Council seeks to ensure the proper conduct of its business through the application of its Contract Procedural Rules, Financial Regulations, Codes of Conduct and other related procedures, which reinforces the Council's commitment to effective governance, the highest possible standards of openness, honesty and accountability to embed an anti-fraud culture.

This policy supports that commitment by encouraging employees and others who may have serious concerns about any aspect of the Council's work to be able to raise those concerns in good faith, in confidence and without fear of recrimination.

The Council is committed to dealing responsibly and professionally with any genuine concern raised about malpractice, be it danger to staff or the public, financial malpractice, breach of legal obligations or damage to the environment. The making of deliberately false or malicious allegations by any employee of the Council will be regarded as a serious disciplinary offence.

This policy is in addition to the Council's complaints procedures and other statutory reporting procedures. The Council acknowledges the legal protection, under the Public Interest Disclosure Act 1998, provided for workers who make disclosures about improper practice.

E.

F. Aim of the Policy

The aim of this Policy is to encourage anyone who may have concerns about improper conduct of the Council, Councillors or external organisations to disclose any allegation of malpractice within the Council, without fear of recrimination. The Policy is founded on the principle that service users and the public interest come first.

The Council's rules and procedures

A number of rules and procedures have been approved and adopted to ensure the Council's business is properly controlled. They form the basis of the Council's internal control process and system of governance and it is important that all members and staff are aware of, and abide by, them.

The most important of these are:

- Codes of Conduct for Employees and Members
- Financial Regulations
- Contract Procedure Rules
- Scheme of Delegation
- Employees' Conditions of Service

The Financial Regulations require all cases of actual or suspected fraud, corruption and theft to be reported immediately to the Section 151 Officer (Deputy Chief Executive) who will inform the Head of Internal Audit. Directors and Heads of Service must ensure that all staff are aware of the reporting requirement.

Concerns involving Fraud and Corruption

Concerns can be raised if there is a reasonable belief that one or more of the following has occurred:

- Gross mismanagement.
- Actions contrary to the Code of Conducts relating to staff and Members of the council.
- Actions that are illegal, fraudulent and/or corrupt.
- Actions that compromise health and safety at work.
- The concealment of any of the previous matters.
- Similar behaviour not otherwise described.

Safeguards

Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one, not least because of the fear of reprisal from those responsible for the misconduct. The Council will not tolerate harassment or victimisation and will take all reasonable measures to protect those who raise a concern in good faith. This does not mean that, if you are an officer of the council making the disclosure and are already the subject of disciplinary or redundancy procedures, these will be halted as a result of the disclosure.

Confidentiality

The Council will protect the identity of the person making the disclosure (where ever possible) where that Officer has requested that his or her name be kept confidential. During the course of an investigation, the Council will keep a minimum number of people aware of who raised the matter. However, it must be appreciated that the investigation process may reveal the name of the source of the information, and a statement by the officer making the disclosure may be needed as part of the evidence.

Anonymous Allegations

This policy encourages those making a disclosure to put their name to the allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising that discretion, the factors to be taken into account would include:-

- I. the seriousness of the issue raised;
- II. the credibility of the concern; and

III. the likelihood of confirming the allegation from attributable sources.

Untrue Allegations

If an allegation is made in good faith, but it is not confirmed by the investigation, no action will be taken against the officer making the disclosure. If, however, individuals make malicious or vexatious allegations, the allegations will not be taken further and disciplinary action may result. The judgement of whether an allegation is malicious or vexatious rests with the Head of Internal Audit, after consultation with other senior officers as necessary.

Part B: Procedures for dealing with a report

How to report any concerns

You are advised in the first instance to report your suspicions to the Head of Internal Audit & Monitoring Officer who manages the Council's Whistle-blowing arrangements, dealing with concerns that relate to members of staff, elected members of the Council and other contractors/partners. Concerns can be reported by calling 01483 52xxxx. Calls will be answered between 09.00 and 17.00 Monday to Friday and outwith these times a message can be left. Reports can also be submitted using the web reporting facility on the Waverley web site www.waverley.gov.uk.

Letters can also be addressed to:

Head of Internal Audit
The Bury
Council Offices
Godalming
Surrey

Alternatively your suspicions can be reported directly to the Chief Executive/a Strategic Director or to the Head of Human Resources.

The Head of Internal Audit may where necessary suggest that the matter be referred to third parties such as the Standards Board, which deals with issues of Member conduct, or the police.

Everyone is advised that they may, in confidence and without fear of recrimination, disclose concerns of suspected improper conduct at the levels set out below. Concerns are better raised in writing. You are invited to set out the background and history of the concern, giving names, dates and places where possible, and the reason for why the situation has raised particular concern. If you feel unable to put a concern in writing, you can telephone or meet the appropriate officer. It may be necessary for the originator to be called as a witness at a later date.

If you do not wish to go through this reporting mechanism, or you are unhappy with the outcome of any investigation undertaken, please feel free to contact any of the other external organisations listed in this policy.

Employees are advised that they may raise their concerns with other external organisations such as the Citizens' Advice Bureau, addresses and telephone numbers can be found in the telephone directory. Alternatively the 'Public Concern at Work' is a registered charity which is able to provide, free of charge, confidential and independent advice to people in these circumstances. Contact details for this organisation is included at the end of this policy.

How the Complaint will be dealt with

a) The Head of Internal Audit logs all reports and carries out a preliminary review in each case to determine the most appropriate course of action. The action will depend on the nature of the concern and will also be logged. Any matters which fall within the scope of other existing procedures (e.g. complaints or discrimination issues) will be dealt with under these procedures. Some concerns may be resolved by agreed action without the need for investigation. Matters to be investigated may be:

- dealt with internally by Internal Audit or other specialist sections such as the Benefit Investigations Team, Human Resources advisors or
- referred to the Police or other external agency.

b) Within **three working days** of a concern being received, the Council will write to the complainant:

- acknowledging that the concern has been received,
- indicating how it proposes to deal with the matter,

The Council may also ask for more information where this would assist in the investigation.

c) Investigations may result in recommendations for changes to procedures and systems which will be incorporated into action plans. Follow up reviews will be carried out to ensure that recommendations are implemented.

d) Investigations may lead to disciplinary action against employees conducted in accordance with the Council's Disciplinary Procedures. This may be in addition to any legal proceedings instigated by the police.

e) Where appropriate the Head of Internal Audit will refer findings to the Police for investigation or review, after discussion with the Chief Executive or Head of Legal and Estate Services.

f) If you raise a matter and then later decide to withdraw your concern, the Council will respect your wishes wherever possible. However if the matter is assessed as serious, then the Council will, where it is deemed appropriate, continue to investigate which may result in further evidence being required from you.

Contact Details

Internal Contact Details

Head of Internal Audit & Monitoring Officer- Mark Hill
Telephone: 01483 523240 e-mail: mark.hill@waverley.gov.uk

Chief Executive – Mary Orton
Telephone: 01483-523208 e-mail: mary.orton@waverley.gov.uk

Deputy Chief Executive (Section 151 Officer) – Paul Wenham

Standards 24
01.07.08

Telephone:01483-523238 e-mail: paul.wenham@waverley.gov.uk

Head of Human Resources – Alex Overington
Telephone:01483-523385 e-mail: alex.overington@waverley.gov.uk

Strategic Director (Environment) – Stephen Thwaites
Telephone:01483-524363 e-mail: stephen.thwaites@waverley.gov.uk

Strategic Director (Housing & Community) – David January
Telephone:01483-523361 e-mail: david.january@waverley.gov.uk

Strategic Director (Leisure & Regulation) – Peter Maudsley
Telephone: 01483-523398 e-mail: peter.maudsley@waverley.gov.uk

External Organisation Contact Details

The Audit Commission is the Council's external auditor, an independent body, which may be contacted if you feel that your suspicions of fraud or malpractice have not been satisfactorily dealt with through the internal route.

Audit Commission

Jamie Bewick, Audit Manager,
1st Floor, MLS Business Centre, Crossweys, 28-30 High Street, Guildford Surrey,
GU1 3EL
Telephone: 01483 243351 e-mail: j-bewick@audit-commission.gov.uk

Public Concern at Work

Suite 301
16 Baldwins Gardens
London
EC1N 7RJ

Telephone: 0207 404 6609 Fax 0207 404 6576
Website: www.pcaw.co.uk e-mail: whistle@pcaw.co.uk

Any concerns relating to Housing Benefits can be reported confidentially on the Department Work and Pensions Fraud hotline: 0800-328-6340.

THIS POLICY IS NOT EXHAUSTIVE AND MAY BE SUBJECT TO CHANGE

It is planned that hyperlinks will be placed on the Website & Intranet to e.g.
Contract Procedure Rules
Financial Regulations
Code of Conduct for Employees
Code of Conduct for Members
The Councils Constitution
Public Concern at Work

WAVERLEY BOROUGH COUNCIL

PROSECUTION POLICY

Waverley Borough Council is committed to preventing fraud and corruption and has developed an 'Anti-Fraud and Anti-Corruption Strategy' in order to minimise its occurrence.

The Council will constantly monitor its systems and amend procedures as required.

This policy does not supersede other internal disciplinary codes implemented by the Council, and internal offenders (e.g. Council employees or Members) will be subject to general disciplinary procedures in addition to potential prosecution.

GENERAL

The Council's policy on fraud is to:

- ❖ Deter it in the first instance
- ❖ Detect it quickly
- ❖ Investigate it efficiently and in accordance with the law; and
- ❖ Prosecute offenders when appropriate
- ❖ Make it as easy as possible for staff, Members and the Public to report concerns

In order to prosecute;

- The evidence must be collected according to local procedures and in accordance with the necessary laws, which currently include the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedures Investigations Act 1996 (CPIA) and the Regulation of Investigatory Powers Act 2000(RIPA).
- The Council must be satisfied that there is sufficient evidence to provide a 'realistic prospect of conviction', meaning that a jury or bench of magistrates or a judge hearing a case alone, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.
- If there is sufficient evidence to provide a realistic prospect of conviction, the Council must also be satisfied that it is in the public interest to prosecute.

The Council will when considering a prosecution, and throughout the course of a prosecution, always adhere to the principles contained in the Code for Crown Prosecutors issued by the Director of Public Prosecutions.

In most cases, the Deputy Chief Executive and the Head of Internal Audit, and where appropriate in consultation with the Chief Executive, or another designated officer, will decide whether reporting the matter to the Police is appropriate. In exceptional circumstances the Head of Internal Audit may after consultation with the Head of Legal refer a matter to the Police direct without prior consultation with the Deputy Chief Executive or the

Chief Executive. Cases will also be discussed with the Leader of the Council, and the relevant portfolio holder will be kept informed of progress.

In deciding whether a fraud should be reported to the Police, some of the following factors will be taken into consideration:

- The extent of the fraud/corruption in financial terms and how long the offence has lasted.
- The sufficiency and appropriateness of evidence.
- How the public interest will be best served.

In general, all cases will be reported to the Police. However, the decision as to whether to prosecute or not ultimately rests with the Police and the Crown Prosecution Service, although the Council reserves the right to instigate proceedings itself if it is considered necessary. Any action will be taken in accordance with underlying principles, which include the following:

- ❖ Each case will be examined on its own merits;
- ❖ All persons under suspicion will be treated fairly;
- ❖ Decisions will only be taken when the facts are known;
- ❖ The rules of Natural Justice will always prevail.

Special arrangements are made in respect of housing benefit fraud, for which a dedicated investigation team is employed. They operate to a separate Housing Benefit Anti-Fraud Strategy and a Housing and Council Tax Benefit Prosecution Policy, which embrace the principles of the Council's wider Anti-Fraud and Anti-Corruption Strategy.

Publicity

The Council's aim, and statutory responsibility, is to prevent the waste, theft and fraud of public money. With that in mind the Council has in place a wide range of measures aimed at preventing fraud. These include measures to prevent and deter the commission of offences.

One such deterrent measure is the publication of details of convictions obtained by the Council. The publicity surrounding a conviction for fraud has two positive effects. First, it deters others who may be seeking to commit such offences, and second it generates confidence in the general public that the Council takes a serious view of fraud and is proactive in seeking to prevent it.

The Council will therefore consider publishing the name and address of each person convicted of fraud, together with details of the offence(s) in question. In reaching a decision as to whether to publish the name(s) and address(es), the Council will take the following factors into consideration:

- **The specific details of the offence committed.**
- **The public interest in disclosing personal information (for example, the deterrent effect referred to above).**
- **Whether the publication would be proportionate.**
- **The personal circumstances of the offender.**

- **Whether any other person may be affected by the publication (for example, family members).**

This list is not exhaustive and other factors may be relevant in the circumstances of each individual case.

When, having considered the above factors, it is considered appropriate to publish details of a conviction, the Deputy Chief Executive, as Section 151 Officer to the Council, will record the reasons for the publication, and the Head of Internal Audit, as his role as monitoring Officer, will maintain a central register of the records.

THIS POLICY IS NOT EXHAUSTIVE AND MAY BE SUBJECT TO CHANGE

ANNEXE 4

Code of Conduct complaints – anonymous complaints

Waverley Borough Council will consider all complaints received that are anonymous. It acknowledges that complainants may have good reason for withholding their identity.

In assessing such complaints it will take into account the following criteria:

- **The amount of detail provided by the complainant that will assist in identifying the date and circumstances of the incident/allegation**
- **Any photographic or documentary evidence supplied with the complaint which lends credence to the complaint and supports the allegations made**
- **The likely availability of independent or third party evidence that may support the evidence**
- **The apparent significance of the complaint, including the nature of the allegation and the role and status of the subject member(s)**

The Council will consider these criteria in conjunction with its assessment criteria and the Anti-Fraud and Corruption Strategy and Whistleblowing Policy.

ANNEXE 5

Article 9 – The Standards Committee

9.01 **Standards Committee**

The Council will determine the composition of and the role and function of the Standards Committee.

9.02 **Composition**

- (a) **Membership.** The Standards Committee will be composed of:-
- six councillors [other than the leader, and with a maximum of one member from the Executive];
 - three independent people who are not councillors or an officer of the Council or any other public body having a Standards Committee, their term of office to be ~~three~~ **up to four years and be eligible to continue for further terms;**
 - **two-three** members of a Town or Parish Council in the Council's area who cannot also be a District Councillor, to be appointed until the next full Town and Parish Council elections.
- (b) **Independent members.** Independent members will be entitled to vote at meetings.
- (c) **Town and Parish members.** One **or more** Town or Parish member must be present when matters relating to Town or Parish Councils or their members are being considered, except where they have an interest; and
- (d) **Chairing the Committee.** The Chairman of the Committee shall be an Independent Member ~~whenever possible~~. A member of the Executive may not chair the Committee.

9.03 **Role and Function**

The Standards Committee will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;

- (f) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) ~~dealing receiving and assessing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical Standards Officer to the Monitoring Officer; complaints received concerning the conduct of Waverley Borough members and the investigation and determination as appropriate or the referral to the Standards Board for England for assessment, investigation and determination;~~
- (h) the exercise of (a) to (g) above in relation to the town and parish councils in Waverley Borough and the members of those town and parish councils;
- (i) to receive, ~~assess, investigate and determine complaints referred to the reports from the Monitoring Officer/Investigating Officer as a result of referrals from an Ethical Standards Officer~~ Standards Board for England in accordance with (g) above that are referred back to the Standards Committee by the Standards Board for England; and
- (j) ~~to hold a Hearing where appropriate in respect of referrals from an Ethical Standards Officer to the Monitoring Officer.~~
- (j) ~~to provide information required by the Standards Board for England regarding complaints about member conduct;~~
- (k) in the event of a dispute arising from a breach of the Council's Local Protocols, the Standards Committee should use the same Investigation and Determination processes as for statutory Local Determinations;
- (l) providing an advisory role to the Constitution SIG in matters pertaining to the Constitution.

9.04 **Section 66 Regulations: Standards Committee Local Determinations**

- (a) **Appointment of Hearing Panels sub-committees:** the Standards Committee appoint ~~a Panel sub-committees~~ of no less than 3 or 5 members for ~~local the process of assessment through to determinations of a complaints received regarding member conduct that may have breached the Code of Conduct either from the Standards Board for England or the Monitoring Officer or for determination of a breach of Local Protocols in accordance with the Standards Committee (England) Regulations 2008.~~ The Panel sub-committees will have the power to determine complaints without further reference to the Standards Committee;
- (b) **Panel Sub-committee Membership:** the Chairman of the Standards Committee be authorised to determine the membership of the Panel sub-committees at the appropriate time, in consultation with the Monitoring Officer, should there be reason to vary the membership from that agreed by the Council Standards Committee;
- (c) **Composition of Panel Sub-committees:** the number of members appointed to the Panel sub-committees to be dependent on the individual

circumstances of the case, to be chaired by an independent member and to include at least one Town/Parish representative for Town/Parish issues and at least two-one Waverley representatives for a Waverley related issue, to be drawn from the membership of the Standards Committee as a whole at the appropriate time; and

~~(d) **Chairman:** whenever possible Hearing Panels shall be chaired by one of the Independent Members of the Standards Committee.~~