

## **Part 1**

# **Summary and Explanation**

## PART 1 : Summary and Explanation

### The Council's Constitution

Waverley Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### What is in the Constitution?

Article 1 of the Constitution commits the Council to:-

- (i) providing efficient, transparent and accountable decision – making, whilst maximising the involvement of the community to ensure **that the Council delivers excellent and effective** ~~delivery of quality~~ services, maintained by a commitment to continuous improvement;
- (ii) providing clear, comprehensive and robust guidance on how the constitution works, to ensure that the Council's procedures are effective and that it is clear how to challenge them; and
- (iii) clear criteria providing the opportunity for the review of governance arrangements should the Council wish to revise or reform its constitution in the future.

Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny of decisions (Article 6)
- The Executive (Article 7)
- Regulatory, Quasi-Judicial and Other Committees (Article 8)
- The Standards **Panel** ~~Committee~~ (Article 9)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision-making (Article 13)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)

- Suspension, interpretation and publication of the Constitution (Article 16).

### How the Council operates

The Council is composed of 57 councillors (or members) elected every four years. Councillors are democratically accountable to residents of their ward. Their overriding duty is to the whole Waverley community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The **Monitoring Officer Standards Committee** trains and advises members on the Code of Conduct.

All councillors meet together as the Council around seven times a year. Meetings of the full Council are usually open to the public but may consider certain items in exempt sessions. Here councillors decide the Council's budget and policy framework and set the budget each year.

The role of full Council, comprising all 57 members, is to:-

- elect each year the Mayor and Deputy Mayor;
- elect the Leader for a four year period;
- approve each year the allocation of seats on Committees and Sub-Committees and substitute lists; and
- appoint each year the Council's Regulatory Committees, Overview and Scrutiny Committees, Joint Committees, **Standards and Appeals Panels**, etc.

The Council is empowered to hold to account the Executive and its Regulatory Committees by the receipt of regular reports and by submitting minutes, from meetings of the Executive and committees, presented in **two three** parts, comprising:-

Part I - matters for decision by the Council, which are subject to debate and discussion concluding with a vote in accordance with the proper procedures on each matter containing a recommendation for decision. Matters for decision will include the policy framework and changes to it, Council Tax levels and budget setting, constitutional issues, rent levels, establishment matters etc.

Part II and Part III - matters for the information of the Council, and subject to no debate. Members may, however, give proper notice of a question or a statement in relation to the matter provided that they do not introduce any new information (see procedure rule 14.14), to which the Chairman of the relevant committee may reply, without further debate.

The Council meeting also provides a forum for:-

- formal questions from any member of the Council on a matter of local concern within the Borough;

- the receipt of petitions from any member of the Council or Local Government elector for Waverley on a matter relating to an issue over which the Council has powers or duties, in accordance with the Council's Petition Scheme; and
- special debates of councillors, to address matters in a less formal manner, but comprising all members of the Council.

## **HOW DECISIONS ARE MADE**

- The Executive is the part of the Council which is responsible for delegated decisions.
- The Executive is made up of the Leader and up to nine councillors appointed by the Leader, with the Executive's responsibilities divided into areas of responsibility (portfolios), each member leading on a specific group of policy issues.
- When major decisions are to be discussed or made, these are published in the Executive's Forward Programme of Key Decisions in so far as they can be anticipated.
- If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open to councillors and the public to attend except where personal or confidential matters are being discussed.
- The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

## **OVERVIEW AND SCRUTINY COMMITTEES**

**(The following to be amended in due course if changes to the Overview and Scrutiny Committees are agreed following a review)**

The Council appoints two Overview and Scrutiny Committees of up to 19 **non-Executive** Members. The role of the Committees will be to:

- review and scrutinise decisions made by, and the performance of, the Executive, Committees or Council officers;
- review and scrutinise the performance of the Council in relation to its performance objectives, performance targets, or particular service areas;
- review and scrutinise the performance of other public bodies;
- make recommendations to the Executive, Committees or Council arising from the above;
- assist the Council and Executive in the development of its budget and policy framework; and
- conduct research and other consultation on policy issues and possible options.

The Committees will have call-in powers in relation to individual Executive decisions. Call-in can be triggered by a notice signed by any 4 members or substitute members of the Committee. Details are set out in the Overview and Scrutiny Protocol.

The Overview and Scrutiny Committees will be able to make an annual report, or recommendations to the Executive or in exceptional circumstances where a decision by the Executive is outside the Council's budget or policy framework, to the Council.

In the event of a single party Executive, the Chairmen of the two Overview and Scrutiny Committees should be nominated from the larger minority group **on the Council, subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to 6 members).**

## **THE COUNCIL'S STAFF**

The Council has people working for it as a corporate body (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. There is a Member/Officer Protocol governing the relationship between officers and councillors, which is set out in Part 5.

## **CITIZENS' RIGHTS**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:-

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- inspect the Constitution **on our website or** and obtain a copy on payment of a reasonable fee;
- attend meetings of the Council, its Executive, Committees and Sub-Committees, except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- in accordance with the Waverley scheme, petition the Council on matters of local concern and ask questions at Overview and Scrutiny and other Committees;
- ask informal questions at meetings
- contribute, by invitation, to matters being considered by the Overview and Scrutiny Committees;
- speak at Area and Joint Planning Committee meetings if the public speaking scheme applies to an application
- find out, from the Executive's Forward Programme of Key Decisions, what major decisions are to be discussed by the Executive and when;

- attend all formal meetings of the Executive where key decisions are being discussed or decided (except where personal or confidential matters are being discussed);
- see public reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council in accordance with its Customer Charter about:-
  - a failure to do something it should have done;
  - something done badly;
  - unfair treatment; or
  - something it should not have done.
- after using the Council's own complaints process, to complain to the Local Government Ombudsman **or the Local Government Housing Ombudsman** if they think the Council has not followed its procedures properly.
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts at the annual audit and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the **Executive Director** ~~Chief Executive~~, Waverley Borough Council, The Burys, Godalming, Surrey, GU7 1HR. Telephone: (01483) **52323708**.

E-mail: ~~mary.orton~~ **paul.wenham**@waverley.gov.uk.

Article 3 of this Constitution contains a statement of the rights of citizens to inspect agenda and reports and attend meetings.

## **PART 2 : Articles of The Constitution**

### **Article 1 - The Constitution**

#### **1.01 Powers of the Council**

The Council shall exercise all of its powers and duties in accordance with the law and this Constitution.

#### **1.02 The Constitution**

This Constitution, and **its Articles** ~~all of its appendices~~, comprises the Constitution of Waverley Borough Council.

#### **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:-

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of Council decision-making;
3. help councillors represent their constituents effectively;
4. enable decisions to be taken efficiently and effectively;
5. create an effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise an Executive decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable and that they explain the reasons for decisions; and
8. provide a means for the Council to improve its services continually.

#### **1.04 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

## **Article 2 - Members of the Council**

### **2.01 Composition and eligibility**

- (a) **Composition.** The Council will comprise 57 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of Waverley Borough area or those living or working in the Borough will be eligible under the law to hold the office of councillor.

### **2.02 Election and terms of councillors**

#### **ELECTION OF THE WHOLE COUNCIL EVERY FOUR YEARS**

**Election and terms.** The regular election of councillors will normally be held on the first Thursday in May every four years beginning in **201503**. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. Bye-elections will be held for vacancies as they arise.

### **2.03 Roles and functions of all councillors**

#### **(a) Key roles :-**

In accordance with the Waverley Code of Conduct, the Member/Officer protocol and the Members' Planning Code of Good Practice, and maintaining the highest standards of conduct and ethics, to:-

- (i) collectively be the ultimate policy-makers and oversee a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process;
- (iii) deal with individual casework and act if appropriate as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward and represent the ward as a whole;
- (v) contribute to various forums for decision-making;
- (vi) be available to represent the Council on other bodies.



(b) **Rights and duties**

- (i) Councillors shall have such rights of access to such documents, information, land and buildings of the Council as are necessary for them to discharge their functions properly and in accordance with the law.
- (ii) Councillors shall not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 **Conduct**

Councillors shall at all times observe the Waverley Code of Local Government Conduct and the Protocol on Member/Officer Relations set out at Part 5 of this Constitution.

2.05 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 – Citizens and The Council

### 3.01 Citizens' Rights

Citizens of Waverley Borough are the people registered as electors, together with all other people living or working in the Borough. Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and Petitions.** Citizens on the electoral roll for the Borough have the right to:
- vote at elections;
  - petition to request a referendum for a Mayoral form of Executive; and,
  - petition the Council on matters of local concern.
- (b) **Information.** Citizens have the right to:
- (i) attend meetings of the Council, the Executive and Committees where key decisions are being discussed, except where confidential or exempt information is likely to be discussed, and the meeting is therefore held in private;
  - (ii) find out from the Executive's Forward Programme of Key Decisions, what major decisions are to be discussed by the Executive and when;
  - (iii) see public reports and background papers, and any record of decisions made by the Council, the Executive and its Committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (iv) a copy, on making a written request, of all types of recorded information held by the Council, subject to a range of exemptions under the Freedom of Information Act 2000;
  - (v) on making a written request and upon payment of a fee, a copy of any personal data held about him or her, under the Data Protection Act 1998;
  - (vi) inspect the Council's accounts and make their views known to the external auditor;
  - (vii) upon payment of a fee, obtain a paper copy of the Council's Constitution **or access it on our website free of charge**; and
  - (viii) contact their local Councillor about any matters of concern to them.
- (c) **Participation.** Citizens have the right to participate in both informal and formal question time at Council and its Committees, subject to the correct procedures being followed as set out in the Council's Constitution. They also have the right to contribute to matters being considered by the Overview and Scrutiny Committees. Rights to submit petitions are set out in Council Procedure Rules [number 10.9]

The Council welcomes participation by its citizens in its work. For further information about citizens' rights, the **Executive Director** ~~Chief Executive~~ can be contacted at Waverley Borough Council, The Burys, Godalming, Surrey, GU7 1HR. Telephone: (01483) **52323708**.

(d) **Complaints.** Citizens have the right to complain to the Council about:

- (i) a failure to do something the Council should have done;
- (ii) something, which the Council has done badly;
- (iii) unfair treatment from the Council; or
- (iv) something which the Council should not have done.

Citizens also have the right to complain to:

- (i) the Council itself under its Customer Charter;
- (ii) the Local Government Ombudsman **or the Local Government Housing Ombudsman**, after using the Council's own complaints procedures, if they think that the Council has not followed its procedures properly;
- (iii) the Information Commissioner, after using the Council's own complaints procedures, if they think that the Council has not properly answered a Freedom of Information request or a Data Protection Subject Access Request;
- (iv) the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct.

### 3.02 **Citizen's Responsibilities**

Citizens must not be violent, abusive or use threatening behaviour to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## Article 4 – The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The policy framework includes the following plans and strategies:-

- the Council's Corporate Plan
- Sustainable Community Strategy
- Corporate Governance Policy
- Civil Emergency Plan
- Waverley Initiative for a Sustainable Environment (WISE) – the Local Agenda 21 Strategy
- Financial Strategy
- Property Strategy and Asset Management Plan
- ICT Strategy
- Waverley Housing Strategy
- Housing Revenue Account Business Plan
- HRA Asset Management Strategy
- Social Inclusion Strategy
- Safeguarding Children and Young People Policy
- Community Safety Strategy
- Local Plan 2002 and Local Development Framework
- Economic and Community Development Strategy Framework
- Cultural Strategy
- Waverley Recycling Plan
- Contaminated Land Strategy
- Car Parking Strategy

(b) **Budget.**

The budget includes:-

- the allocation of financial resources to different services and projects,
- proposed contingency funds,
- the council tax base,
- setting the council tax,
- decisions relating to the control of the Council's borrowing requirement,
- the control of its capital expenditure
- the setting of virement limits and deciding variations to the budget, virements over £50,000 and supplementary estimates over £20,000 except where the supplementary estimate request is for costs arising from either a civil emergency, a planning appeal or a planning enforcement action when the limit is £50,000
- setting council house rent levels.

(c) **Housing Land Transfer.** Housing Land Transfer means

- (a) the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or

- (b) to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 4.02 **Functions of the full Council**

Only the Council shall exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader of the Council for a four year term;
- (e) the election of the Mayor and Deputy Mayor;
- (f) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them;
- (g) decisions relating to Procedure Rules and Contracts Procedure Rules, and to protocols;
- (h) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (i) appointing to joint bodies;
- (j) setting the Council tax;
- (k) agreeing the levels of members' allowances and adopting an allowances scheme under Article 2.05;
- (l) changing the name of the area, conferring the title of honorary alderman or honorary freedom of the borough;
- (m) confirming the appointment of the Head of Paid Service and Strategic Directors;
- (n) adding and deleting posts from the agreed permanent staffing levels;
- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

- (p) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive;
- (q) major new developments which involve the Council in a broader role than solely Development Control.
- (r) all other matters which, by law, must be reserved to Council including:
  - Functions relating to Health and Safety at Work;
  - Functions in relation to parishes and **Town and** Parish Councils;
  - Functions relating to local government pensions;
  - Adoption and revision of the Codes of Conduct;
  - Recommendations for delegations to Committees or Officers;
  - Electoral matters;
  - Decisions relating to diversions of rights of way;
  - Decisions to make payments or provide other benefits in cases of maladministration.

#### 4.03 **Council meetings**

There are four types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings;
- (d) informal meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### 4.04 **Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

## **Article 5 – Chairing The Council**

### **5.01 Role and function of the Mayor**

The Mayor and Deputy Mayor will be elected by the Council annually.

The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions:-

### **5.02 Ceremonial Role**

To attend such civic and ceremonial functions as the Council and he/she determines appropriate.

### **5.03 Chairing The Council Meeting**

The Mayor and Deputy in his/her absence will have the following responsibilities:-

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. in accordance with legislation and Procedure Rules, to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or hold Committee chairs are able to hold the Executive and Committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to assume any role in resolving disputes given to the chairman under the Executive Procedure Rules.

**Article 6 – Overview and Scrutiny Committees**

**OVERVIEW AND SCRUTINY – GENERAL COMMENTS**

Since 2000 most Councils have been managed by an Executive of up to ten elected Councillors. These Councillors are able to take most management decisions within the overall policy framework agreed by full Council which consists of all elected Councillors.

Overview and Scrutiny Committees are a key element of executive arrangements. They are the means by which the Executive is held to account for its decisions on the implementation of Council policy and provide an opportunity for a methodical review of performance and the effectiveness of policies. And act as a check and balance on the powers of the relatively small group of councillors who make up the Executive.

Effective scrutiny is essential to achieve enhanced accountability and transparency of the decision-making process. Overview and Scrutiny Committees also have a key role in the policy development process, in reviewing budgetary and general policies, making recommendations either to the full Council or the Executive on future policy options and providing the framework for accountable, transparent decisions. The Council is committed to establishing a constructive and creative relationship between the Executive and scrutiny roles in Waverley and partner organisations.

The guiding principle of the overview and scrutiny function is that the process should make a positive contribution to the work of the Council.

At Waverley, Overview and Scrutiny Committees are based on particular functions (e.g. housing and community welfare, environment). The membership is politically proportionate. Each Overview and Scrutiny Committee can divide with the approval of the Executive into smaller sub-committees, with appropriate officer support, to study and report back on a particular topic. Currently, a scheduled meeting of each Overview and Scrutiny Committee is held once a cycle, five times a year, with additional meetings, if necessary, to discuss called-in matters.

**6.01 Terms of Reference**

Waverley has two Overview and Scrutiny Committees covering the following areas:

Community	Corporate
<ul style="list-style-type: none"> <li>• Community welfare</li> <li>• Older people in the community</li> <li>• Day centres</li> <li>• Community safety</li> <li>• Town and village liaison</li> <li>• Rural issues and the voluntary sector</li> <li>• Environment</li> <li>• Planning and major developments</li> <li>• Economic development</li> <li>• Land drainage</li> </ul>	<ul style="list-style-type: none"> <li>• Corporate Finance</li> <li>• Provision of Housing Services</li> <li>• Any inspection framework in place</li> <li>• Value for Money</li> <li>• Corporate and Community Strategies</li> <li>• Partnership Working</li> <li>• Member Communications</li> <li>• Asset Management</li> <li>• Information Technology, including telecommunications</li> </ul>



<ul style="list-style-type: none"> <li>• Business liaison</li> <li>• Cultural and leisure provision and youth</li> </ul>	<ul style="list-style-type: none"> <li>• HR including Waverley Training Services</li> <li>• Corporate Communications and Public Relations</li> <li>• Customer Service</li> <li>• Co-ordinating and publishing information on service performance</li> <li>• Elections and electoral registration</li> <li>• Locality Offices</li> </ul>
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## 6.02 **General role**

Within their terms of reference, Overview and Scrutiny Committees will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with carrying out any of the Council's or partner organisation's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any Committee in connection with any Council functions and the appropriate partner organisation body;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy or area committees.

## 6.03 **Specific functions**

- (a) **Policy development and review.** Overview and Scrutiny Committees may:-
  - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question members of the Executive and Directors about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Overview and Scrutiny Committees may carry out their scrutiny role in a variety of modes:-

### Select Committee Mode

- (i) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (ii) question members of the Executive and Directors about decisions or matters within their portfolio or area of responsibility, whether generally or in relation to particular decisions, initiatives or projects;
- (iii) make recommendations to the Executive and/or Council arising from the outcome of the scrutiny process;

### Call-In Mode

- (iv) review and scrutinise the decisions made by the Executive and council officers in relation to individual decisions;

### Broader Community Role

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
  - (vi) question and gather evidence from any person (with their consent).
  - (vii) Exercise an oversight of the activities of partner organisations including Surrey Police and the Surrey PCT.
- (c) **Community Call for Action.** Exercise the functions relating to Community Calls for Action
- (d) **Finance.** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.
- (e) **Annual report.** Overview and Scrutiny Committees shall report annually to full Council on their workings and make recommendations for future work programmes and amended working methods, if appropriate. This will be discussed at a designated meeting in the year.
- (f) **Officers.** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers allocated to support their work.

## 6.04 Proceedings of Overview and Scrutiny Committees

The guiding principle of the overview and scrutiny function is that the process should make a positive contribution to the work of the Council. Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution. Overview and Scrutiny Committees may authorise Waverley media releases on their work, the content of which is to be jointly agreed by the appropriate Overview and Scrutiny Committee Chairman and Vice-Chairman.

## **Article 7 – The Executive**

### **STRONG LEADER WITH CABINET MODEL**

#### **7.01 Role**

The Executive will oversee all of the local authority's functions which are within the policy framework and budget set by the Council and are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

#### **7.02 Form and composition**

##### **(a) Appointments to the Executive**

The Executive will consist of the Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader.

##### **(b) Appointment of Deputy Leader**

The Leader will appoint the Deputy Leader, to hold office until the end of the term of his/her office as Leader.

The Leader may, if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

##### **(c) Allocation of Portfolios**

The Leader will determine the scope of portfolios and allocate them to members of the Executive.

#### **7.03 Leader**

The Leader will be a councillor elected to the position of Leader by the Council.

The term of office of Leader starts on the day of his/her election as Leader. The Leader is elected for a four (4) year period, unless his/her term of office as councillor is shorter, in which case the term of office as Leader will be the same as their term of office as councillor.

The Leader will hold office until:-

- (a) he/she resigns from office or is removed from office; or
- (b) he/she is no longer a councillor; or
- (c) is disqualified from being a councillor;

If the current Leader is re-elected, he/she will remain Leader until the date of the next Annual Council Meeting.

Waverley Borough Council shall have the power to remove the Leader by way of resolution by a simple majority.

7.04 **Other Executive members**

Other Executive members shall hold office until:-

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) the Leader removes them from their position, **either temporarily by suspending them or permanently.**

The Mayor and Deputy Mayor of the Council may not be members of the Executive.

7.05 **Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution. All decision taking meetings will be generally open to the public in accordance with the Access to Information Procedure Rules.

7.06 **Informal Policy Advice – Special Interest Groups (SIGs)**

The Executive will be supported in its policy development work by Special Interest Groups (see Special Interest Group Protocol in Part 4 of this Constitution).

## **Article 8 – Regulatory and other Committees**

### **8.01 Regulatory Committees**

The Council will appoint the Committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

Currently the Regulatory Committees are:

- Joint Planning Committee
- Area Planning Committees (Central, Eastern, Southern and Western)
- Licensing and Regulatory Committee.

### **8.02 Audit Committee**

The Audit Committee is the means of bringing independent, effective assurance into the Council's corporate governance arrangements. This **covers** ~~is in~~ respect of:-

- Risk management framework
- Control environment and arrangements
- Financial performance
- Non-financial performance (processes and controls)
- Financial reporting.

**An Audit Committee Charter was adopted in September 2013.**

### **8.03 Terms of Reference**

The Terms of Reference are as follows:

#### **1. Corporate Governance**

- 1.1 To consider the Council's arrangements for corporate governance and recommend necessary actions to ensure compliance with best practice as set out in the current CIPFA/SOLACE Framework "Delivering Good Governance in Local Government" and any revision thereof.
- 1.2 To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- 1.3 To consider the Council's compliance with its own and other published regulations, standards and controls.
- 1.4 To monitor Council policies in "Raising Concerns at Work" and the anti-fraud and anti-corruption strategy and the Council's complaints-handling process.
- 1.5 To monitor the effective development and operation of internal control in the Council with particular reference to risk management.
- 1.6 To consider the Council's Annual Governance Statement and, if thought fit, recommend its adoption by the Council.
- 1.7 To consider any reports published by bodies, other than the external auditor, charged with inspecting the Council's performance or arrangements for corporate governance.

- 1.8 To review any issue referred to it by the Head of Paid Service or a director or any Council body.
- 1.9 To request a report from any Head of Service relating to an outstanding internal audit recommendation issue.

## **2. External scrutiny**

- 2.1 To consider whether appropriate accounting policies have been followed in the preparation of the annual statement of accounts.
- 2.2 To consider all communications from the external auditor to the Audit Committee, including:
  - 2.2.1 the audit letter;
  - 2.2.2 the report on issues arising from the audit of the accounts; and
  - 2.2.3 any other reports requested by the Audit Committee from the external auditor.
- 2.3 To consider whether there are concerns that need to be brought to the attention of the Council that arise from:
  - 2.3.1 the audit; or
  - 2.3.2 the accounts.
- 2.4 To consider and, if thought fit, approve the annual statement of accounts.
- 2.5 To comment on the scope and depth of external audit work and to ensure that it gives value for money, especially with regard to reports dealing with [risk] management and performance matters.
- ~~2.6 To liaise with the Audit Commission with regard to the appointment of the Council's external auditor.~~

## **3. Internal audit**

- 3.1 To consider the Annual Review of the system of Internal Audit.
- 3.2 To consider the Internal Audit Client Manager's Annual Report.
- 3.3 To consider the annual Internal Audit Service Plan.
- 3.4 To consider the current Internal Audit Plan and summaries of internal audit activity by department and consider the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- 3.5 To consider internal audit reports detailing recommendations not implemented within the specified timescale.
- 3.6 To consider proposed internal audit activity and the range of departments to be covered and the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- 3.7 To commission work from the Internal Audit Service.
- 3.8 To consider any specific internal audit reports requested by the Audit Committee.
- 3.9 To monitor the progress of any specific internal audit projects.
- 3.10 To consider reports dealing with the management and performance of the providers of internal audit services.
- 3.11 To comment on the scope and depth of internal audit work and to ensure that it gives value for money, especially with regard to reports dealing with [risk] management and performance matters.

## 8.04 Composition of Audit Committee

### (a) Membership and Meetings

The Audit Committee will

- be composed of seven councillors, with no members from the Executive;
- meet four times per year, as set out in the Calendar of Meetings, and on an ad hoc basis when necessary.

### (b) Quorum

The quorum for meetings will be three Councillors.

## Article 9 – The Standards Panel Committee

### 9.01 Standards Panel Committee

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

### 9.02 Composition

(a) **Membership.** The Standards **Panel Committee** will be composed of:-

- **six nine** 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 up to four years and be eligible to continue for further terms, for a maximum of two terms (eight years);~~
- **three two** 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 non-elected members will be entitled to vote at meetings.~~

(b) **Town and Parish members.** **At least** 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

(c) **Chairing the Panel Committee.** The Chairman of the **Committee Panel** shall be **appointed by Council** ~~an Independent Member. The Vice-~~

~~Chairman will also be an Independent Member.~~ A member of the Executive may not chair the **Committee Panel**.

### 9.03 **Role and Function**

The Standards **Panel 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 **on training for** ~~or arranging to train~~ councillors and **Independent persons** ~~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;~~
- (f) **Where the Monitoring Officer decides a hearing is necessary,** ~~receiving and assessing~~ 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;~~
- (g) the exercise of (a) to (f) 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 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 provide information required by the Standards Board for England regarding complaints about member conduct;~~
- (h) in the event of a dispute arising from a breach of the Council's Local Protocols, the Standards **Panel Committee** should use the same ~~Investigation and Determination~~ processes as **breaches of the Code.** ~~for statutory Local Determinations;~~
- ~~(i) providing an advisory role to the Constitution SIG in matters pertaining to the Constitution.~~



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

- (j) Appointment of a **Panel**: sub-committees: the **Monitoring Officer in consultation with the Chairman of the Standards Panel will** Standards Committee appoint **Panels** sub-committees of no less than 3 members for the process of **hearing and determination** assessment through to ~~determination~~ of complaints received regarding member conduct that may have breached the **Waverley Code of Conduct or that of the relevant Town or Parish Council**.in accordance with the ~~Standards Committee (England) Regulations 2008~~. The **Panels** sub-committees will have the power to determine complaints **where these have been referred by the Monitoring Officer**. without further reference to the Standards Committee;
- (b) ~~**Sub-committee membership:** the Chairman of the Standards Committee be authorised to determine the membership of the 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;~~
- (c) ~~**Composition of sub-committees:** the number of members appointed to the 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 one Waverley representative for a Waverley related issue, to be drawn from the membership of the Standards Committee as a whole at the appropriate time.~~

Role of the Independent Persons

## **Article 10 – Area Committees and Forums**

### 10.01 **Area committees**

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council has appointed four area based Planning Committees with membership proportional to political group representation within these areas to give Local Members a larger say in planning decisions for their areas.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

## Article 11 – Joint Arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.

Waverley works in partnership with Surrey County Council for the purpose of the **Waverley Local Committee** to which members of this Council are appointed on an annual basis. There are regular liaison meetings with Town and Parish Councils.

~~Waverley is a member of **Surrey First**, a Joint Committee of Surrey authorities, details of the governance arrangements for which are attached as an Annexe to this Article, subject to the addition of the following paragraph:-~~

~~13.2 Meetings of any working groups or task groups established by the Joint Committee shall, unless otherwise agreed, be held in private.~~

Waverley has agreed to the establishment of a Joint Committee of Surrey authorities to act as the **Police and Crime Panel** and will appoint one representative to the Panel.

## Article 12 – Officers

### TERMINOLOGY

#### 12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts:-

<i>Post</i>	<b>Functions and areas of responsibility</b>
<del>Chief Executive</del> <b>Executive Director</b> (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional and legal advice to all parties in the decision making process.</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Planning, including development control, planning policy, housing enabling, regeneration, building control <b>and land charges</b></p>
<del>Director of Resources &amp; Deputy Chief Executive</del> <b>Director of Finance and Resources</b>	Finance and performance; revenues and benefits; human resources, customer and office services, estate services; Section 151 officer
<del>Strategic Director</del> <b>Director of Operations</b>	Housing functions; economic development and partnerships; environmental health and community safety; engineering and car parking; leisure and youth services, environmental services.

## **Executive Director ~~Chief Executive~~, Monitoring Officer and Director of Finance and Resources**

The Council will designate the following posts as shown:-

<i>Post</i>	<i>Designation</i>
<del>Chief Executive</del> <b>Executive Director</b>	Head of Paid Service
<b>Monitoring Officer and Returning Officer</b> <del>Head of Democratic and Legal Services</del>	Monitoring Officer
<b>Director of Finance and Resources</b>	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

### **12.02 Functions of the Head of Paid Service**

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### **12.03 Functions of the Monitoring Officer**

The list of functions below reflects the statutory duties and powers of monitoring officers:

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive if he or

she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Standards Panel Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards **Panel Committee**.
- ~~(d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.~~
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations **in accordance with the Council's adopted arrangements for dealing with Standards allegations** ~~into matters referred by ethical standards officers~~ and make **initial decisions not to investigate, and if necessary, commission an investigation. The Monitoring Officer will consult on the Independent Persons at appropriate stages in the process** ~~reports or recommendations in respect of them to the Standards Committee.~~
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (g) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (i) **Restrictions on posts.** The Monitoring Officer cannot be the chief finance officer or the head of paid service.

#### 12.04 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

- (c) **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Audit Committee** – the Chief Finance Officer will act as Lead Officer for the Council’s Audit Committee.

12.05 **Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.06 **Conduct**

Officers will comply with the Officers’ Code of Conduct and the Protocol on Officer/Member Relations at Part 5 of this Constitution.

## **Article 13 – Decision-Making**

### **13.01 Responsibility for decision-making**

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### **13.02 Principles of decision-making**

All decisions of the Council will be made in accordance with the following principles:-

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) respect for human rights;
- (c) a presumption in favour of openness; and
- (d) clarity of aims and desired outcomes.
- (e) That members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions;
- (f) That decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation;
- (g) That relevant matters are fully taken into account in decision-making;
- (h) That nothing irrelevant is taken into account;
- (i) That the Council's constitution is fully complied with including in particular:-
  - Procedure Rules
  - Contract Procedure Rules
  - Financial Regulations
  - Scheme of Delegation
  - The Waverley Code of Local Government Conduct and Waverley Members' Planning Code of Good Practice
  - Members should make any appropriate declarations of interests
  - Officer Code of Conduct
- (j) That decisions are recorded by officers and published, together with the reasons and relevant background papers.



### 13.03 **Types of decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Definition of Key Decisions:-
  - (i) “an executive decision which is likely to result in the local authority incurring expenditure or making savings of above £20,000.
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards...”.

(Waverley has adopted a broader approach to including items in the forward programme, with the intention of giving the maximum information and notice to the Overview and Scrutiny arm of the Council of all significant decisions affecting the budget or policy framework.)

- (ii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### 13.04 **Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 13.05 **Decision making by the Executive**

Subject to Article 13.08, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### 13.06 **Decision making by Overview and Scrutiny Committees**

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### 13.07 **Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.08 **Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 14 – Finance, Contracts and Legal Matters**

### **14.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **14.02 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

### **14.03 Legal proceedings**

- (a) The **Borough** Solicitor ~~to the Council~~ is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council;
- (b) If time permits and there is a significant change of circumstances from when the Council took a decision, the **Borough** Solicitor ~~to the Council~~ will report to the Executive on the cost involved; and
- (c) Where a case of urgency arises and the **Borough** Solicitor ~~to the Council~~ considers that such action is necessary to protect the Council's interests, the **Borough** Solicitor ~~to the Council~~ is authorised to institute, defend or participate in any legal proceedings.

### **14.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the **Borough** Solicitor ~~to the Council~~ or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with the values set out in Contract Procedure Rules entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

### **14.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the **Borough** Solicitor ~~to the Council~~. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents that in the opinion of the **Borough** Solicitor ~~to the Council~~ should be sealed. The affixing of the Common Seal will be attested by the **Borough** Solicitor ~~to the Council~~ or the Head of **Policy and Governance** ~~Democratic and Legal Services~~ or Principal Solicitor.

## **Article 15 – Review and Revision of the Constitution**

### **15.01 Duty to monitor and review the Constitution**

The Constitution Special Interest Group and ~~Standards Panel~~ Committee will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **Protocol for monitoring and review of constitution by monitoring officer**

A key role for the Constitution Special Interest Group is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Group ~~in consultation with the Standards Panel~~ Committee may:-

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **15.02 Changes to the Constitution**

Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Constitution Special Interest Group, Executive and, if necessary, Standards ~~Panel~~ Committee.

## Article 16 – Suspension, Interpretation and Publication of the Constitution

### 16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1, with a maximum of the duration of that meeting.
- (c) **Rules capable of suspension.** The following Council Procedure Rule may be suspended in accordance with Article 16.01:

#### 14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed four minutes without the consent of the Mayor, except in the case of movers of a motion or an amendment, or those having a right of reply when they may not exceed six minutes. There shall be no time limit for the Leader of the Council in moving the Budget at the Council Tax Setting meeting.

### 16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### 16.03 Publication

- (a) The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Part 3

## Responsibility for Functions

### PART 3 : Responsibility for Functions

#### Introduction

Responsibilities for undertaking the functions of the Council as a local authority are either reserved to the full Council (that is, the whole group of 57 members of the authority as a decision making body), or allocated to the Executive or to other Committees of the Council.

Determination of the Council's policy framework and budget, and other constitutional and quasi-legislative functions will remain the responsibility of the full Council.

Where functions exercised involve determining an application from a person for a licence, an approval, a consent, etc., or enforcement actions associated with such functions, they will not be the responsibility of the Executive but will be carried out by Regulatory Committees. Some functions are allocated to the statutory Committees of the Council, that is, those that are required by law to fulfil particular functions, for example, the Licensing and Regulatory Committee and its Sub-Committees.

All other functions not specified as the responsibility of the Council or of particular Committees are the responsibility of the Executive.

Delegation of responsibilities to the **Executive Director** ~~Chief Executive~~, ~~Strategic~~ Directors, and other officers of the Council will remain as before except that where there is a need for officer consultation with members (for reasons of urgency or any other reason) on any matters the responsibility of the Area Planning or Licensing Committees, consultation will be with the Chairman and Vice-Chairman of the listed Committee and not with the Leader of the Council. In the event that urgent consultation is required and the relevant Committee Chairman or Vice-Chairman is unavailable or barred from consultation by a personal interest, consultation will be with the Mayor or Deputy Mayor.

#### A. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

[N.B. There are policy formulation and regulatory aspects to all functions set out in the table below which would involve consideration by the Executive or Regulatory Committees where appropriate].

Function	Decision making body	Membership	Delegation of functions
Determination of an appeal against any decision made by or on behalf of the authority	Appeals Panel	4 members of the Appeals Panel other than any such member who has taken part	No delegation

		in the decision the subject of the appeal	
<del>Best Value Reviews</del>	<del>The Executive</del>	<del>Executive members</del>	<del>Delegation to the Chief Executive of matters of process and conduct of reviews with support from the Overview &amp; Scrutiny Committees as set out in the Overview &amp; Scrutiny Article and procedure rules</del>
Contaminated Land functions	<i>Only those elements which are regulatory in nature to be identified later. Matters relating to expenditure stay with the Executive</i>	12 Members of the “extended” <i>Licensing and Regulatory Committee</i>	Delegation to officers in accordance with the existing scheme
Control of pollution or the management of air quality			Delegation to officers in accordance with the existing scheme
Service of abatement notices			Delegation to officers in accordance with the existing scheme
Inspection, investigation of complaints, and prevention of statutory nuisances			Delegation to officers in accordance with the existing scheme
Requisitions for Information S.16 Local Government (Miscellaneous Provisions) Act 1976			Delegation to officers in accordance with the existing scheme

Requisitions for Information S.330 Town and Country Planning Act	Joint Planning Committee		Delegation to officers in accordance with the existing scheme
Appointments to outside bodies for members and officers	The Executive	Council Members	

## **B. RESPONSIBILITY FOR COUNCIL FUNCTIONS**

Only the Council shall exercise the following functions:-

1. The election of the Mayor and Deputy Mayor
2. The appointment or removal of the Leader
3. Determination of the allocation of seats on committees and their composition and appointment, and agreeing and/or amending their terms of reference
4. Adopting or amending the Constitution and Code of Conduct
5. Decisions relating to Procedure Rules and to Contract Procedure Rules, and to protocols
6. Setting the Council Tax
7. Approval of the budget and final accounts
8. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
9. Decisions relating to applications to the Secretary of State to join the annual disposals programmes or to transfer housing land
10. Confirming the appointment of the Head of Paid Service and Directors
11. adding and deleting posts from the agreed permanent staffing levels
12. appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council
13. appointing to joint bodies
14. Decisions to make payments or provide other benefits in cases of maladministration



15. Functions relating to elections, including (for example) the duty to appoint an electoral registration officer, returning officer, or division of the Borough into polling districts
16. decisions in relation to parishes and parish councils (with the exception of functions referred to the Standards Committee in respect of parishes and parish councils)
17. decisions relating to the name and status of areas and individuals (e.g. the nomination of honorary freemen)
18. decisions to make, amend, revoke, or re-enact byelaws and relating to diversions of rights of way.
19. decisions to promote or oppose personal bills or local legislation
20. Functions relating to local government pensions
21. Adopting a scheme or schemes for payment of member allowances, travel and subsistence allowances or expenses under Article 2.05
22. Recommendations for delegation to Committees or officers
23. All local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive
24. Decisions relating to major new developments which involve the Council in a broader role than solely Development Control;
25. The Council will retain responsibility for the adoption and/or amendment of plans and strategies incorporated in the policy framework including the following:
  - the Council's Corporate Plan
  - Community Strategy
  - Civil Emergency Plan
  - Waverley Initiative for a Sustainable Environment (WISE) – the Local Agenda 21 Strategy
  - Financial Strategy
  - Capital Strategy
  - Property Strategy and Asset Management Plan
  - ICT Strategy and IEG Statement
  - Equal Opportunities in Service Delivery Policy Statement
  - Housing Strategy Statement
  - Housing Revenue Account Business Plan
  - Opportunities for All Strategy (1997)
  - Community Safety Strategy
  - Local Plan 2002 and Local Development Framework
  - Economic Opportunities Strategy and Action Plan
  - Cultural Strategy
  - Waverley Recycling Plan
  - Contaminated Land Strategy
  - Car Parking Strategy

<b>Committee</b>	<b>Membership</b>	<b>Functions</b>	<b>Delegation of functions</b>
Joint Planning Committee	23 members of the authority,	Relevant functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (Amendment No 2) (England) Regulations 2004 (the Functions Regulations)	Delegation to four Area Planning Committees and to officers in accordance with the delegation scheme  <b><i>(n.b. These will be grouped in two pairs, Eastern, comprising of Eastern and Central and Western, comprising Western and Southern.</i></b>  <b><i>The grouped Committees will have a common Chairman and Vice Chairman and the two appointees shall be from different areas. )</i></b>

<b>Power</b>	<b>Joint Planning Committee</b>	<b>Area Planning Committees (including Joint Meetings)</b>
To make decisions on the administrative and procedural issues affecting the determination of applications.	Yes	No
Power to determine planning applications	Yes	Yes
Power to determine applications to develop land without compliance with conditions previously attached	Yes	Yes

Power to grant planning permission for development already carried out	Yes	Yes
Power to decline to determine planning applications for planning permission	Yes	Yes
Duties relating to the making of determinations of planning applications	Yes	Yes
Power to determine applications for planning permission made by the Council	Yes	Yes
Power to make determinations, give approvals and agree other matters relating to the exercise of permitted development rights, including Article 4 Directions removing such rights	Yes	Yes
Power to enter into or vary or discharge agreements relating to development or use of land	Yes	Yes
Power to issue certificates of lawfulness of existing or proposed use or development	Yes	Yes
Power to serve a completion notice	Yes	Yes
Power to grant consent for the display of advertisements	Yes	Yes
Power to authorise entry onto land	Yes	Yes
Power to authorise applications for warrants to enter land	Yes	Yes
Power to require the discontinuance of a use of land	Yes	Yes
Power to require proper maintenance of land	Yes	Yes
Power to serve a Planning Contravention Notice, Breach of Condition Notice or Stop Notice (including temporary stop notice)	Yes	Yes
Power to issue an enforcement notice and power to require proper maintenance of land	Yes	Yes
Power to apply for an injunction restraining breach of planning control, or in relation to a listed building	Yes	Yes
Power to determine	Yes	Yes

applications for hazardous substances consent and related powers		
Power to determine applications for listed building consent and related powers and duties relating to applications for listed building consent	Yes	Yes
Power to determine applications for Conservation Area Consents and to issue an enforcement notice in relation to demolition of an unlisted building in a Conservation Area	Yes	Yes
Power to serve a Building Preservation Notice and related powers including the power to execute urgent works	Yes	Yes
Powers relating to the preservation of trees and protection of important hedgerows	Yes	Yes

The proposed role of the Joint Planning Committee as distinct from the Area Planning Committees would be to consider applications or issues referred to it for the following reasons:-

- a. **To make** decisions on the administrative and procedural matters affecting the processing of applications. E.g. report formats, information specifications etc.
- b. **To review all housing schemes which propose a net increase of more than 25 dwellings, where the recommendation is for permission to be granted;**
- c. **To consider** applications defined as major, as defined by the Government (10 or more units of residential accommodation, more than 1,000 sqm commercial floorspace and site area of more than 1 hectare)

and which, in the judgement of the **Executive Director** ~~Chief Executive~~, after consultation with the Head of Planning and the appropriate Area Planning Committee Chairman, meet the following criteria

- i. have a significant planning impact beyond the Area in which they are situated, and/or
  - ii. are of strategic importance, and/or
  - iii. involve new planning issues for the Borough; or
- d. Where within three weeks of the application appearing on the Waverley weekly list of planning applications, the Chairman and Vice-Chairman of the relevant

Area Planning Committee and the ward member request that it be referred to the Joint Planning Committee and put forward relevant grounds as set out in c (i) to (iii) above, the **Executive Director** ~~Chief Executive~~ and Head of Planning will normally submit the application to the Joint Planning Committee."

Committee	Membership	Functions	Delegation of functions
<p>Licensing and Regulatory Committee</p> <p><b>Licensing (General Purposes) Sub-Committee</b></p> <p><b>Licensing Act 2003 Sub-Committees A, B and C</b></p>	<p>12 members of the authority</p> <p><b>5 members</b></p> <p><b>3 members on each</b></p>	<p>Taxi, private hire car, gaming, entertainment, food premises and miscellaneous licensing functions, relating to licensing and registration as set out in Schedule 1 to the Functions Regulations as amended in so far as those functions are the responsibility of a district local authority. (For fuller list, refer to Annexe 1)</p>	<p>Delegation to officers in accordance with the existing scheme</p>
		<p>Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the council’s capacity as employer. (Health and Safety responsibilities of the Council as employer are to be discharged by the Executive, and are within the portfolio for Asset Management and Human Resources)</p>	<p>Delegation to officers in accordance with the existing scheme</p>
<p><b>Standards Panel Committee</b></p>	<p><del>6</del> <b>9</b> Members of Waverley Borough Council and <del>at least three additional independent members who are not officers or members of the Council or other local authority bodies and</del> <b>2</b> Town and Parish Council</p>	<p>The promotion and maintenance of high standards of conduct within the Council</p> <p>To advise the council on the adoption or revision of its Code of Conduct</p> <p>To monitor and advise the council about the operation of its Code of Conduct in the light of best practice, and changes in the law, <del>guidance from the Standards Board and</del></p>	<p>See Article 9</p>

	<p>representatives</p> <p><b>Independent Persons</b></p>	<p><del>recommendations of case tribunals under section 80 of the Local Government Act 2000</del></p> <p><del>Assistance to members and co-opted members of the authority</del></p> <p><del>To ensure that all members of the Council have access to training in all aspects of the member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the Code</del></p> <p><del>Other functions</del></p> <p><del>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government Act 2000</del></p>	
Audit Committee	7 members of the authority	<p>Risk management arrangements, the control, environment and associated anti-fraud and anti-corruption arrangements, Statement on Internal Control</p> <p>Action taken on risk-related issues</p> <p>Assurance Statements</p> <p>Internal audit strategy, plan and performance</p> <p>External audit plan</p> <p>Internal audit reports</p> <p>Audit Manager's annual</p>	See Article 8

		report  Reports of external audit and other inspection agencies  Relationships between internal and external audit, inspection agencies and other relevant bodies  Financial statements, external auditor opinion and management response	
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Conditions of Delegation

- (a) Where any Committee (excluding the Executive and the Joint Planning Committee) has reached a decision under delegated powers, five members of that Committee, present at the meeting, may immediately require that the decision shall operate as a recommendation to the Council. The recommendation will then be submitted to the next following ordinary meeting of the Council.
- (b) In the case of the Licensing and Regulatory Committee and Audit Committee, three members present at the meeting may immediately require that a decision shall operate as a recommendation to the Council. The recommendation will then be submitted to the next following ordinary meeting of the Council.



### 3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

#### Policy Issues

- (a) (i) Overall co-ordination of policy in respect of the whole of the Council's activities, including the corporate strategy, and the financial effectiveness of the organisation.
- (ii) To consider and report to the Council on major issues affecting the Council, whether local or national, provided that, in the event of any such matter falling within the terms of reference of any standing committee, it is a matter which there is a need to expedite or is a policy matter of major importance to the Council. In such a case the Leader of the Council shall obtain the agreement of the Chairman of the relevant standing Committee concerned before the matter is considered by the Executive.
- (iii) To consider and advise the Council annually on the Council Tax base, the estimates of expenditure and the capital programme when formulated for all service issue areas, on the resources available and to determine variations to the capital programme within the overall sum approved by the Council.
- (iv) To advise the Council on the overall level of Council Tax to be levied (including Parish expenditure), including the precept of the Surrey County Council and level of rents to be set to meet the Council's needs.
- (v) To monitor both capital and revenue spending against approved budgets.
- (vi) To advise the Council on all policy matters relating to the Council's property holdings and to determine all sales, acquisitions and other property transactions and, in the case of acquisitions, where there is provision within the approved capital programmes or revenue budget.
- (vii) To advise the Council on the corporate strategy and community plan.
- (viii) To advise the Council on all matters of policy relating to the following duties and functions:-
  - (1) matters concerning the **Local Government and Housing Ombudsman**; ~~Commission for Local Administration~~;
  - (2) local government boundaries, elections and electoral registration;
  - (3) calendar of meetings;
  - (4) procedure rules;
  - (5) the financial and manpower resources of the Council;
  - (6) members' training;
  - (7) review of the Council's decision-making structure;

- (8) management developments and practices;
  - (9) public relations, marketing and market research;
  - (10) reports submitted by the **External District** Auditor.
  - (11) emergency planning;
  - (12) community safety.
- (ix) To consider and make recommendations on any other matters not the specific responsibility of any other standing Committee of the Council.
  - (x) To liaise with organisations and make representations on all areas not within the terms of reference of other standing Committees.
- (b) To carry out within the Council's policy, subject to any statutory requirements and the conditions of delegation, all matters relating to the management of the matters referred to in (a) (i) to (x) above.
  - (c) To make grants within the approved budgets to voluntary organisations and other outside bodies operating within the committee's responsibility including the Matched-Funding Scheme.
  - (d) To advise the Council on the members' allowance scheme and other policy issues on allowances.
  - (e) To be responsible, within the Council's policy and subject to the conditions of delegation for:-
    - (i) the approval of a total request for virements not exceeding £50,000 and supplementary estimates not exceeding £20,000 except where the supplementary estimate request is for costs arising from either a civil emergency, a planning appeal or a planning enforcement action when the limit is £50,000;
    - (ii) the management of the Council's total loan debt and investment or utilisation of all capital receipts, sinking fund, reserve funds or other accumulations;
    - (iii) major maintenance, improvement and development of all Council properties including energy conservation matters.
  - (f) To bring together and maintain information on the authority's property holdings other than housing revenue account dwellings, shops and garages.
  - (g) To initiate property reviews and to analyse regularly the appropriateness and occupancy of the authority's holdings.
  - (h) To monitor and account for the performance of the investment and tenanted service portfolios.

- (i) To determine overall strategic maintenance priorities.
- (j) To control and manage all land or property and to manage the disposal process to ensure maximum benefit for the authority as a whole.
- (k) To consider the general employment policy of the Council and to promote the effective use of the Council's staffing both in the short and long term.
- (l) To be responsible within the Council's policy, subject to the conditions of delegation, for all matters relating to:-
  - (i) the recruitment, selection, appointment, deployment, training, promotion, welfare, working conditions, terms and conditions and retirement of all employees;
  - (ii) the fixing and review of establishments within the approved staffing budget;
  - (iii) all powers and duties of the Council under employment related legislation;
  - (iv) employee relations including local employee consultation and negotiation processes and grievance, disciplinary, dismissal and appeal procedures;
  - (v) employment and training initiatives including those promoted by central government.
- (m) To appoint the Employers' Negotiating Team whose role is to conduct negotiations with the staff through the Waverley Joint Negotiating Committee for Pay and Conditions on all matters concerning local pay and conditions of service.
- (n) To act in a consultative and sounding board capacity for the Employers' Negotiating Team for all matters concerning local pay and conditions of service.
- (o) To determine, on the advice of the Employers' Negotiating Team, matters relating to local pay and conditions of service.
- (p) To consider policy relating to **procurement of services** ~~competitive tendering and best value.~~
- (q) To deal with policy issues relating to specifications, standards of service and monitoring of contracts.
- (r) ~~To deal with any issues relating to Best Value.~~
- (s) To overview complaints handling and Ombudsman investigations.
- (t) To ensure that effective actions are taken to manage Waverley's key business risks.

## Performance Review Issues

- ~~(a) To co-ordinate and lead the overall work of the Council on performance review.~~
- ~~(b) To advise the Council on, and co-ordinate its response to, Best Value.~~
- ~~(a) To oversee preparations for and implementation of Best Value.~~
- (a) To review the Council's performance management systems to ensure that they are sufficiently systematic and rigorous and adequately resourced.
- (b) To receive performance management reports, including benchmarking and the monitoring of performance against national and local performance indicators.
- ~~(f) To oversee the annual Best Value Corporate Review (including annual consultation).~~
- ~~(g) To oversee preparation and publication of the Best Value Local Performance Plan.~~
- ~~(h) To receive reports from the Chairmen of service review teams on service reviews included in the Best Value programme of reviews.~~

## Operations Issues

- (a) To advise the Council on major policy issues relating to the following functions:-
  - (i) engineering services
  - (ii) markets
  - (iii) cemeteries
  - (iv) burial of the dead
  - (v) information technology and office systems
  - (vi) data protection
  - (vii) the civic complex (excluding the Borough Hall)
  - ~~(viii) help shops and locality offices~~
  - (ix) the appointment of the Council's bankers, insurers and other financial agents
  - (x) matters relating to Council Tax, Community Charge and rate collection and recovery.
- (b) To carry out, within the Council's policy and approved capital programmes and revenue budgets, subject to the conditions of delegation, the management of the above mentioned functions.

- (c) Subject to the conditions of delegation, to be responsible for all matters concerning information technology and office systems within the approved Capital Programme and revenue budgets.
- (d) Subject to the conditions of delegation, to:-
  - (i) determine matters concerning rate relief and representations from council tax payers including any residual matters relating to the Community Charge and General Rates;
  - (ii) act as a Review Board for statutory transitional relief appeals, any appeals made against the determination, under delegated powers, of new applications for discretionary rate relief from charities, non-profit making organisations and rural businesses, any exceptional cases that do not conform with the current policy guidelines, and all hardship relief cases.

### Leisure Issues

- (a) To advise the Council on major policy issues relating to the following functions:
  - (i) countryside, including commons, bridleways and footpaths on borough land;
  - (ii) parks, open spaces and community areas
  - (iii) allotments
  - (iv) sport and recreation (including all matters relating to sports and leisure centres) and children's play
  - (v) arts, museums, cultural and community activities and facilities
  - (vi) tourism
  - (vii) village halls matters
  - (viii) youth matters
  - (ix) grants relating to all these areas.
- (b) To carry out, within the Council's policy and approved capital programmes and revenue budgets, subject to the conditions of delegation, the management of the above mentioned functions.
- (c) To make grants within the approved budgets to voluntary organisations and other outside bodies.

### Strategic Planning Issues

To advise the Council on all matters of policy relating to the following functions:-

- (i) strategic planning
- (ii) preparation of the local **plan development framework**
- (iii) control of development
- (iv) designation of conservation areas
- (v) town and country planning matters generally, including co-operation with Surrey County Council
- (vi) town schemes and listed buildings
- (vii) highway planning and traffic management
- (viii) dangerous trees
- (ix) the administration of grants towards the preservation of listed buildings and buildings in conservation areas, or within the Farnham town scheme
- (x) public transport services
- (xi) street naming and numbering

#### Other environmental issues

To advise the Council on all matters of policy relating to the following functions:-

- (a) ecological issues
- (b) environmental health
- (c) environmental services (including environmental cleaning, public conveniences, animal control and waste recycling)
- (d) domestic and commercial refuse collection and liaison with the Waste Disposal Authority
- (e) home safety
- (f) car parking
- (g) energy conservation including council property.

#### Housing and Community Welfare Issues

- (a) To advise the Council on all matters of policy relating to the following functions:-
  - (i) the housing needs of the Borough and the securing of affordable accommodation to meet those needs
  - (ii) managing and improving the Council's housing stock

- (iii) elderly people's welfare
  - (iv) mortgages
  - (v) the housing advisory service
  - (vi) housing standards
  - (vii) house renovation grants
  - (viii) housing benefits
  - (ix) providing for welfare needs generally, where those needs are not within the specific responsibility of other statutory bodies
  - (x) formulating the annual Housing Strategy Statement and the Housing Revenue Account Business Plan.
- (b) To carry out, within the Council's policy and approved capital programmes and revenue budgets, subject to the conditions of delegation, the management of the above mentioned functions.
  - (c) To recommend to the Council the level of rents of properties managed by the Borough.
  - (d) To work with statutory and voluntary bodies and other organisations to improve housing and welfare conditions for people in the Borough.

The Executive will function as a Committee, with collective responsibility for decisions made. Individual Executive members will not be able to make decisions on behalf of the Council or of the Executive.

### 3.1 Portfolio Holders

Each individual member of the Executive will oversee a portfolio of corporate functions, responsibilities and interests in the business of the Executive meetings. Except in cases of urgency, in determining any matter the Executive will consult the relevant Portfolio Holder, and such other bodies or individuals (including members of the Council) proposed by the Portfolio Holder and agreed by the Executive.

The Leader will appoint the Deputy Leader and other Members of the Executive and allocate to them the scope of their portfolios.

The Executive may be required by the Council to reconsider or amend any draft plan or strategy.

The responsibilities for functions and delegations set out in the Constitution are subject to

- The rights of an Overview and Scrutiny Committee to consider a proposal within the policy framework
- The exercise by an Overview and Scrutiny Committee of the power to call in or review Executive functions

### 3.2 Restrictions

The Executive may not take responsibility for imposing conditions, limitations or other restrictions on any approval, consent, licence, permission or registration granted by the Area Planning or Licensing and Regulatory Committees.

Where a decision is to be made which would normally relate to an Executive function relating to the budget, or borrowing or capital expenditure, and it is proposed to determine the matter contrary to the budget, or financial management plans, or where the proposed decision is contrary to policy in an adopted plan or strategy, the Executive decision-making process will not apply. The proposal must stand as a recommendation to Council, after consultation with the relevant Overview and Scrutiny Committee.

The responsibilities for functions and delegations set out in this Constitution, in Procedure Rules and in the Scheme of Delegation may only be exercised in accordance with:

- Any statutory restrictions
- The Council's constitution
- The Council's policy framework and any other plans and strategies approved by the Executive
- The in-year budget
- The Waverley Code of Local Government Conduct and the Code of Conduct for Staff
- The Code of Practice on Local Authority Publicity



## **Adoption of the Constitution**

The Council, in adopting this Constitution, delegates the functions referred to in this constitution to be discharged by the bodies or persons and subject to the limitations referred to above at Sections 1 and 2. Any amendment to this Constitution, to the associated Procedure Rules or to the Scheme of Delegation may only be approved by Council.

## Responsibilities for functions

### Annexe 1

#### Licensing and Regulatory Committee

1. Power to issue caravan site licences
2. Power to license the use of moveable dwellings and camping sites
3. Power to license hackney carriages and private hire vehicles, their drivers and operators
4. Power to register pool promoters
5. Power to register societies wishing to promote lotteries under the Gambling Act 2005
6. Power to issue Temporary Event Notices
7. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis
8. Power to register and license premises for the preparation of food, and other regulatory powers to deal with the hygienic production and retail of meat and other food items
9. Power to license premises for the breeding of dogs, pet shops and breeding establishments, **horse breeding and animal boarding establishments**
10. Power to license dangerous wild animals
11. Power to license persons to collect for charitable and other causes
12. Power to grant consent for the operation of a loud speaker
13. Power to grant premises and personal licences under the Licensing Act 2003
14. Power to determine applications for new and variations of premises licences which are subject to representations (Licensing Sub-Committees only)
15. Power to license sex establishments
16. Power to grant premises licences, temporary use notices and occasional use notices under the Gambling Act 2005
17. Power to grant various permits for amusement machines in licensed premises and licensed clubs under the Gambling Act 2005.
18. **Power to consider and determine street trading applications**
19. **Power to license scrap metal dealers.**

## **Part 4**

# **Rules of Procedure**

**[ADVISORY NOTE: –All of the Council Rules of Procedure apply to meetings of full Council. They shall apply, where appropriate and with any necessary modification, to the business of and conduct of meetings of the Executive, Committees, Sub-Committees and Panels, with the exception of Rule 14.5 (when a member may speak again).]**

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## 1. ANNUAL MEETING OF THE COUNCIL

### 1.1 Timing and business

#### **Leader and Executive**

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:-

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor and/or head of the paid service;
- (vi) elect the Leader for a four year period;
- (vii) appoint Overview and Scrutiny Committees, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (viii) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;
- (ix) ~~approve~~ **receive** a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the notice convening the meeting.

### 1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council will:-

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats and substitutes to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee;

- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.

## 2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme **decided by the Executive at the Council's annual meeting**.  
Ordinary meetings will:-

- (i) elect a person, who may not be a member of the Executive, to preside if the Mayor and Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the Mayor, leader, members of the Executive or the **Executive Director** ~~Chief Executive~~;
- (v) receive petitions and questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- (vi) deal with any business remaining from the last Council meeting;
- (vii) receive reports from the Executive and the Council's Committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (ix) consider motions; and
- (x) consider any other business specified in the summons to the meeting, including consideration of proposals from the Executive in relation to the Council's budget and policy framework and the annual reports of the Overview and Scrutiny Committees for debate.

## 3. **EXTRAORDINARY MEETINGS**

### 3.1 **Calling extraordinary meetings**

Those listed below may request the **Executive Director** ~~Chief Executive~~ to call Council meetings in addition to ordinary meetings:-

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer; and

- (iv) any five members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### 4. **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

##### 4.1 **Allocation**

As well as allocating seats on committees, the Council will allocate seats in the same manner for substitute members.

##### 4.2 **Number**

For each committee, the Council will appoint the agreed number of substitutes in respect of each political group in proportion to the number of ordinary seats as that group holds on that committee, Sub-committee **or Panel**.

##### 4.3 **Powers and duties**

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

##### 4.4 **Substitution**

The following procedure will apply to the appointment of substitutes when members are not able to attend a meeting of a Committee or Sub-Committee, but not the Executive, Joint Planning Committee or Area Planning Committees, including in the case of a vacancy:-

- (a) The member unable to attend a Committee or Sub-Committee meeting will submit their apologies to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ by noon at the latest on the day of the meeting and ask that a substitute be appointed.
- (b) The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will then approach substitutes from the appropriate political group in the order agreed by the Council or the parent Committee.
- (c) The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will notify the Committee or Sub-Committee of any substitutions at the start of the meeting.
- (d) Substitutes shall exercise the full voting rights of a member of a Committee or Sub-Committee when attending a Committee or Sub-Committee meeting.

- (e) Substitute members shall be eligible for payment of travelling and subsistence allowances.
- (f) Members on substitute lists will be sent the full agenda for meetings.

5. **TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Head of **Policy and Governance** ~~Democratic and Legal Services~~ and notified in the summons.

6. **NOTICE OF AND SUMMONS TO MEETINGS**

The **Executive Director** ~~Chief Executive~~ will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days before a meeting, the **Executive Director** ~~Chief Executive~~ will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available at the time of despatch.

7. **CHAIRMAN OF MEETING**

The chairman presiding at the meeting may exercise any power or duty of the Mayor.

8. **QUORUM**

The quorum of a meeting will be one quarter of the whole number of members. (for the Council meeting this means 15 members). During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. **ADJOURNMENT OF MEETING**

Meetings of the Council should normally finish by 10.00 p.m. but, at a convenient time before then, the Mayor shall put to the meeting the options of:-

- (i) agreeing to a half hour extension to 10.30 p.m., at which time the meeting shall stand adjourned; or
- (ii) continuing the meeting until the Council has concluded its consideration of the Agenda; or
- (iii) adjourning the meeting.



No business other than that set out in the Agenda shall be discussed at any adjourned meeting.

## 10. **QUESTIONS BY THE PUBLIC**

### 10.1 **General**

Members of the public who have a legitimate interest in the Borough, by way of work or residency, may ask questions of the Executive at ordinary meetings of the Council. These can be informal or formal. Informal questions are asked before the start of the meeting for up to 15 minutes, including replies. No notice needs to be given. The rules on formal questions are set out in Procedure Rules 10.2-10.8 below.

### 10.2 **Order of questions**

Questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions.

### 10.3 **Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ no later than close of business (5.00pm), 7 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

### 10.4 **Number of questions**

At any one meeting no person may submit more than 1 question and no more than 1 such question may be asked on behalf of one organisation.

Each question if read out must be concluded within 2 minutes, and the agenda item, including replies, will last for a maximum of 15 minutes. Any questions not reached in this time will stand referred to the next meeting (or receive a written response).

### 10.5 **Scope of questions**

The **Executive Director** ~~Chief Executive~~ may reject a question if it:-

- is not a matter in relation to which the Council has powers or duties or which affects the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;

- is not substantially in the form of a question.

#### 10.6 **Record of questions**

The **Executive Director** ~~Chief Executive~~ will immediately send a copy of the question to the Chairman of the Executive. Where the **Executive Director** ~~Chief Executive~~ recommends that the question be rejected, reasons for rejection will be stated.

Copies of all questions will be circulated to all members as part of the agenda and will be made available to the public attending the meeting.

#### 10.7 **Asking the question at the meeting**

The text of all questions will be included in the agenda. The Mayor will ask the questioner if he/she wishes to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, it will be taken as read. The Mayor may indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. The time for asking each question shall be limited to two minutes with a total time for the agenda item, including replies, of 15 minutes.

#### 10.8 **Reference of question to the Executive**

Unless the Mayor decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the Executive or the appropriate named Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

### **PRESENTATION OF PETITIONS**

- 10.9 Members of the public can submit petitions electronically through the Waverley website at <http://petitions.waverley.gov.uk> or in hard copy addressed to the **Executive Director** ~~Chief Executive~~. The petition will be dealt with in accordance with the Waverley Petition Scheme, a copy of which is attached as Annexe 1.

## 11. **QUESTIONS BY MEMBERS**

### 11.1 **On reports of the Executive**

A member shall not speak more than once on the same motion or amendment, but the mover of any motion may reply to the debate on the motion, or any amendment thereof, and in his reply shall strictly confine himself to answering statements or arguments made in the course of debate and shall not introduce any new matter into the debate.

### 11.2 **Questions on notice at full Council**

Subject to Rule 11.4, a member of the Council may ask:-

- the Mayor;
- a member of the Executive;
- the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

### 11.3 **Questions on notice at Committees and Sub-Committees**

Subject to Rule 11.4, a member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which falls within the terms of reference of that Committee or Sub-Committee.

Any question put under this rule shall be read out by the member without comment or elaboration and shall be answered without discussion or further question, but the person to whom a question has been put, if for any reason he is unable to answer at the meeting, may undertake to send a written answer to the member asking the question and to any other member on request.

### 11.4 **Notice of questions**

A member may only ask a question under Rule 11.2 or 11.3 if either:-

- (a) they have given at least 7 clear working days notice in writing of the question to the Head of **Policy and Governance** ~~Democratic and Legal Services~~; or
- (b) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ by noon on the day of the meeting.

### 11.5 **Response**

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.

- (d) A record of all questions asked and answers given in accordance with this rule shall be included in the minutes of the proceedings of the Council.

## 12. NOTICES OF MOTION

### 12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by the member or members of the Council giving the notice, must be delivered to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ at least seven clear working days before the date of the meeting.

### 12.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### 12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

- (a) If the subject matter of any motion of which notice has been duly given comes within the province of any Committee or Committees or the Executive (including any relevant Sub-Committees) it shall, upon being moved and seconded, stand referred without further discussion to the Executive, or the relevant Committee or Committees for consideration and report and a statement to this effect shall be included in the summons for the meeting of the Council.
- (b) ~~Provided that~~ The Leader of the Council may, if he considers it convenient and conducive to the despatch of business, allow the motion to be dealt with at the meeting at which it is brought forward and a statement to this effect shall be included in the summons for the meeting of the Council.
- (c) Where a motion is referred to the Executive or a committee or committees (including sub-committees) it shall be dealt with in the business of that committee or sub-committee or the Executive. The relevant Committee or the Executive shall set out the wording of the motion in its report to the next ordinary meeting of the Council after its consideration of the motion and shall include in that report its recommendation on the subject matter of the motion. For the avoidance of doubt, discussion on the item in the report of the committee or Executive dealing with the motion shall be upon the recommendation of the committee and not upon the motion or the wording of the motion itself, but the mover of the motion shall have the right to speak first when the appropriate item in the report of the

committee or committees is reached. The mover shall also have the right to reply to points raised during the debate and for this purpose to speak last but not one, the final right of reply to remain with the Chairman of the Committee or Executive or other member who has moved the reception of the report.

In the event of the recommendation of the Committee or Sub-Committee not being adopted, the original motion shall become the substantive motion.

### 13. **MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) motions in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) remission of business to a Committee or the Executive;
- (e) to refer a matter to an appropriate body or individual;
- (f) to appoint a Committee or member where the need arises from an item on the summons for the meeting;
- (g) to receive minutes or to adopt recommendations of committees or officers and any resolutions following from them;
- (h) to withdraw a motion;
- (i) to amend a motion;
- (j) to proceed to the next business;
- (k) that the question be now put;
- (l) to adjourn a debate;
- (m) to adjourn a meeting;
- (n) that the meeting continue beyond 10.00 p.m. (if rule 9 is used);
- (o) to suspend procedure rule 14.4, for which reasons must be given;
- (p) to exclude the public and press in accordance with the Access to Information Rules;
- (q) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4; and

- (r) to give the consent of the Council where its consent is required by this Constitution.

## 14. RULES OF DEBATE

### 14.1 No speeches until motion seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 14.2 Right to require motion in writing

Unless notice of the motion has already been given, the Mayor will require it to be written down and handed to him/her before it is discussed.

### 14.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### 14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed four minutes without the consent of the Mayor, except in the case of proposers of a motion or an amendment, or those having a right of reply when they may not exceed six minutes. There shall be no time limit for the Leader of the Council in moving the Budget at the Council Tax setting meeting. The Finance Portfolio Holder, the Leader of the Principal Opposition Group and the Leader of any other Opposition Group with 5 or more members should have up to 10 minutes each.

### 14.5 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and

- (f) by way of personal explanation.

#### 14.6 **Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:-
  - (i) to refer the matter to the Executive or a Committee for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of, unless in the opinion of the Mayor this would help the Council conduct its business. Where the Mayor so permits this, they may be discussed (but not voted on) together.
- (c) If an amendment be lost, other amendments may be moved on the original motion. If an amendment be carried, other than one to refer the subject of debate to a Committee or the Executive for consideration or reconsideration, the motion or recommendation as amended shall take the place of the original motion or recommendation and shall become the motion or recommendation upon which any further amendment may be moved.
- (d) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 14.7 **Alteration of motion**

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 14.8 **Withdrawal of motion**

A member may withdraw a motion which he/she has moved with the consent of the seconder and the Council. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 14.9 **Right of reply**

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the amendment has the right of reply at the close of the debate on the amendment and to speak last but one for that purpose, the final right of reply to remain with the mover of the original motion.
- (c) In exercising his right of reply, a Member shall strictly confine himself to answering statements or arguments made in the course of debate and shall not introduce any new material.

#### 14.10 **Motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:-

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 10.00 p.m. if Rule 9 is used;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 21.3 or to exclude them from the meeting under Rule 21.4.

#### 14.11 **Closure motions**

- (a) A member may move, without comment, the following motions at the end of a speech of another member:-
  - (i) to proceed to the next business;



(ii) that the question be now put;

(iii) to adjourn a debate; or

(iv) to adjourn a meeting.

(b) on a motion to proceed to next business

The Mayor shall first put that formal motion to the vote without discussion and if it is passed then the Council shall immediately proceed to the next item of business which shall, in the case of a report of a Committee, be the next item on that report and any motions or amendments relating to such item then before the Council shall be deemed to be lost.

(c) on a motion that the question be now put

If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed, he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

(d) on a motion to adjourn the debate or the meeting

If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 14.12 **Point of order**

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Mayor on the matter will be final and shall not be open to discussion.

#### 14.13 **Personal explanation**

A member may make a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final and shall not be open to discussion.

#### 14.14 **Statements/Questions on Part II and Part III of Executive or Committee Reports/Minutes**

There shall be no debate on any item contained in Part II ~~and Part III~~ of the ~~report~~ **minutes** of the Executive or Committee, but Members may give notice in writing, e-mail or telephone message to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ by noon on the day of the meeting, of a statement or question, and give details of any question.

When a Member or Members of the Executive give(s) notice to speak on any item of ~~an~~ the Executive **minutes** ~~report~~, they shall be heard before any other member of the Council.

Members of the Executive may not bring forward new information under this procedure. Any information which is included in such a statement or question and which has not previously been formally presented to the Council shall be the subject of a report to the next meeting of the Executive, or where appropriate the relevant regulatory Committee.

The Chairman of the Executive or Committee, or person moving the ~~reports~~ **minutes**, shall have a right to make a statement or give an answer in reply.

The Leader may choose to delegate his/her response to the appropriate portfolio holder.

The Member making the statement or asking the question shall have the right to put one supplementary question directly relevant to the reply to the original question put by him. This can be responded to immediately or by a written reply but, there shall be no further debate on this matter.

### 15. **INFORMAL MEETINGS OF THE COUNCIL**

#### 15.1 **Calling of debate**

The Leader may call a state of the Borough debate annually on a date and in a form to be agreed with the Mayor.

#### 15.2 **Form of debate**

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the state of the Borough debate.

#### 15.3 **Chairing of debate**

The debate will be chaired by the Mayor.

#### 15.4 **Results of debate**

The results of the debate will be:-

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the leader in proposing the budget and policy framework to the Council for the coming year.

#### **15.5 Other Informal Council Meetings**

- (i) Informal meetings of Councillors may be called at any time by the Mayor subject to compliance with Section 100B of the Local Government Act 1972 by giving each member notice thereof, such notice specifying the business to be debated thereat, not less than seven clear working days before the date of the meeting.
- (ii) At a meeting called in pursuance of this Procedure Rule
  - (a) these Procedure Rules, with the exception of Procedure Rules 15.5 and 2(i), shall have no effect
  - (b) no business other than that specified in the notice of the meeting shall be discussed
  - (c) no formal resolutions shall be passed
  - (d) no speech shall exceed five minutes in duration
  - (e) the debate shall be limited to a duration of 1 ½ hours unless in the opinion of the Mayor this time is insufficient for the purposes of the debate and such longer time as the Mayor may decide shall be allowed.
- (iii) A meeting called in pursuance of this Procedure Rule shall be an approved duty for the purposes of payment of travel and subsistence allowances.

### **16. PREVIOUS DECISIONS AND MOTIONS**

#### **16.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 15 members.

## 16.2 **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 15 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

Provided that this Procedure Rule shall not apply to any matter coming before the Council as a result of a recommendation of a committee or the Executive.

## 17. **VOTING**

### 17.1 **Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

### 17.2 **Mayor's casting vote**

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote. Where the Mayor has not used his second or casting vote to produce a majority in favour of or against the proposition, then in such case the proposition shall be deemed to be lost for want of a majority.

### 17.3 **Show of hands**

Unless a recorded vote is demanded under Rule 17.4 ~~and 17.5~~, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting. The Mayor will announce the numerical result immediately the result is known.

### 17.4 **Recorded vote**

If a member, supported by five others present at the meeting, demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

### 17.5 **Right to require individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

## 17.6 **Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not an absolute majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is an absolute majority of votes for one person.

## 17.7 **Electronic Voting**

**Any voting referred to in PR 17 may be conducted using the electronic voting system available in the Council Chamber.**

## 18. **MINUTES**

### 18.1 **Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

### 18.2 **No requirement to sign minutes of previous meeting at extraordinary meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### 18.3 **Form of minutes**

The minutes of the proceedings of meetings of the Council, the Executive, committees and sub-committees shall be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next following meeting of the Council by the Chairman, and any minute purporting to be so signed shall be received in evidence without further proof.

18.4 Minutes will contain all motions and amendments in the exact form and order the Mayor puts them.

18.5 The minutes of the Executive, each committee and sub-committee shall be laid on the table for one half-hour before the next meeting commences and also be available for inspection after each meeting.

18.6 The Chairman shall put the question that the minutes of the meeting of the Council, committee or sub-committee held on the .... day of ..... be approved as a correct record.

## 19. **RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting must sign their names in the attendance register before the conclusion of every meeting to assist with the record of attendance. **A summary of the attendance by councillors at the Executive, Committees and Sub-Committees will be published on the Waverley website at the end of each Council year.**

## 20. **EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

## 21. **MEMBERS' CONDUCT**

### 21.1 **Standing to speak**

When a member speaks at full Council they must stand and address the meeting through the Mayor. If more than one member stands, the Mayor will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### 21.2 **Mayor standing**

When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

### 21.3 **Member not to be heard further**

If a member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

### 21.4 **Member to leave the meeting**

If the member continues to behave improperly after such a motion is carried, the Mayor may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

### 21.5 **General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.

## 22. **DISTURBANCE BY PUBLIC**

### 22.1 **Removal of member of the public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

### 22.2 **Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

### 22.3 **Photography, video audio or recording meetings**

Members of the public are not allowed to take photographs, or video or audio record by any means any meeting of the Council, Executive, Committees or Sub-Committees or other meetings, **without first seeking the consent of the Head of Policy and Governance**. If a member of the public refuses to comply with a request from the Mayor or Chairman to stop doing this **if permission has not been sought**, the Mayor or Chairman will order their removal from the meeting room.

## 23. **RIGHTS OF COUNCILLORS TO ATTEND EXECUTIVE, COMMITTEE AND SUB-COMMITTEE MEETINGS**

Any Member of the Council who is not a Member of a Committee or Sub-Committee shall be entitled to attend any meeting of the Executive or that Committee or Sub-Committee, but not to vote, but shall be entitled to speak on any specific item for up to four minutes.

Any Member wishing to do this shall have to give notice specifying the item to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ by noon on the day of the meeting if the meeting begins after 2pm or by 5pm on the previous working day if the meeting commences before 2pm. The Chairman may waive this rule.

Members may seek the consent of the Chairman to present documents or photographs in support of when they speak, but should give the Head of **Policy and Governance** ~~Democratic and Legal Services~~ forty-eight hours notice, but where this has not been possible the Head of **Policy and Governance** ~~Democratic and Legal Services~~ and Chairman may waive the rule.

- 23.1 In the case of Area Planning or Joint Planning meetings, where a Member addresses the committee or sub-committee on a matter affecting their ward, they shall have a right to speak again towards the end of the debate to clarify any matters.

## 24. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### 24.1 **Suspension**

Council Procedure Rule 14.4 (content and length of speeches) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### 24.2 **Amendment**

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## ~~25. **APPLICATION TO COMMITTEES AND SUB-COMMITTEES**~~

~~All of the Council Rules of Procedure apply to meetings of full Council. They shall apply, where appropriate and with any necessary modification, to the business of and conduct of meetings of the Executive and Committees and Sub-Committees with the exception of Rule 14.5 (when a member may speak again).~~



## Access to Information Procedure Rules

### 1. SCOPE

These rules apply to all meetings of the Council, its Standing Committees, including the Executive, Joint Committees, Sub-Committees **and Panels**.

### 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the developing position on Freedom of Information. In addition, there may also be implications arising from Data Protection and Human Rights legislation, which is still evolving.

### 3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules.

### 4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at

The Council Offices  
The Burys, Godalming

Haslemere Locality Office  
Lion Green, Haslemere

Farnham Locality Office  
South Street, Farnham

Cranleigh Locality Office  
Village Way, Cranleigh

and also on the Waverley website.

### 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the offices listed above, at least five clear days before the meeting, and also on the Waverley website **unless a meeting is called as a matter of urgency (Procedure Rule 15 refers) and papers will be made available as soon as possible on the Council's website.**

Where reports referred to in the agenda are prepared after the summons for members to attend the meeting has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors.

## 6. **SUPPLY OF COPIES**

The Council will **publish on its website and** supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any summary agenda pages indicating the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

## 7. **ACCESS TO MINUTES AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:-

- (a) the minutes of the meeting excluding any part of the minutes of proceedings when the meeting was not open to the public or which would disclose information which remains exempt or confidential;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of background papers**

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:-

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

## 8.2 **Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

## 9. **SUMMARY OF PUBLIC'S RIGHTS**

These rules comprise a summary of the public's rights to attend meetings and to inspect and copy documents kept at and available to the public at:

The Council Offices, The Burys, Godalming, Surrey.

## 10. **EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### 10.1 **Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 10.2 **Exempt information – discretion to exclude public**

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of Schedule 1 of the Human Rights Act establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### 10.3 **Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

### 10.4 **Meaning of exempt information**

Exempt information means information falling within the following categories (subject to any condition), and where the Council has resolved that the discretion should be exercised:-

~~[The following has been updated to reflect the revised categories:-]~~

Category	Condition
1. Information relating to any individual	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description
2. Information which is likely to reveal the identity of an individual	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information falling within paragraph 3 is not exempt if it is information that is required to be registered under the Companies Act 1985, the Friendly Societies Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965 to 1978, the Building Societies Act 1986 or the Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority	
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes:-  (a) to give under any enactment a notice under or by virtue of which requirements are	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made

<p>imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime *</p>	
<p>* For the <b>Standards Committee Panel</b>, the additional paragraphs are to be read as if inserted following Paragraph 7:-</p> <p>7A. Information which is subject to any obligation of confidentiality.</p> <p>7B. Information which relates in any way to matters concerning national security.</p> <p>7C. The deliberations of a <b>Standards Panel</b> or of a <del>Sub-Committee of a Standards Committee</del> in reaching any finding on a matter referred to that <del>Committee</del> <b>Panel</b></p>	

Information which is otherwise exempt by virtue of paragraphs 1 to 7 above, may be exempt "if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

Information is not exempt information if it relates to proposed development for which the Council, as local planning authority, may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

#### 11. **EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the **Executive Director** ~~Chief Executive/~~ Head of **Policy and Governance Democratic and Legal Services** /Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be

open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

## 12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 24 apply to the Executive. If the Executive meets to discuss and take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (**Urgent Decisions**~~general exception~~) or Rule 16 (~~special urgency~~) apply. A key decision is defined in Article 13 of the Constitution.

This requirement does not include meetings, whose sole purpose is for officers to brief members.

## 13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (**Urgent Decisions**) and ~~Rule 16 (special urgency)~~, a key decision may not be taken unless:-

- (a) a notice (called here a Forward Programme) has been published in connection with the matter in question;
- (b) at least 5 clear days have elapsed since the publication of the Forward Programme; and
- (c) where the decision is to be taken at a meeting of the Executive, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).
- (d) it results from central government guidance of which the Council has been notified in insufficient time.

## 14. THE FORWARD PLAN

### 14.1 Forward Programme

The Council’s Forward Plan of Key Decisions, to be known as the Forward Programme will be adopted by the Executive. Forward plans and proposals to deal with Key Decisions will be adopted by each meeting of the Executive to cover a period of at least four months, beginning with the day of the Executive meeting.

### 14.2 Contents of Forward Programme

The Forward Programme will contain matters which the Executive has reason to believe will be subject of a key decision to be taken by the Executive during the period covered by the plan. It will detail the matter in respect of which a decision is to be made and the earliest anticipated date of the decision-making meeting. **It will describe the following particulars in so far as the information is available or might reasonably be obtained:**

~~The Executive reports on such decisions may include~~

- (a) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (b) the means by which any such consultation is proposed to be undertaken;
- (c) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- ~~(d) a list of the documents submitted to the decision taker for consideration in relation to the matter.~~

Variations to the Forward Programme will be published with the papers of the Executive. The Constitution of the Council does not provide for decisions to be taken by single members of the Council.

The Council's Scheme of Delegation may allow for decisions to be made by single officers in consultation with specified members. The responsibility for such decisions rests with the officer concerned.

The Head of **Policy and Governance** ~~Democratic and Legal Services~~ will publish once a year a notice on the website, stating:-

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and

- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a Forward Programme and confidential information cannot be included **although a reference should be included to state which category of exempt information might apply to any particular reports.**

#### ~~15.~~ **GENERAL EXCEPTION**

~~If a matter which is likely to be a key decision has not been included in the Forward Programme, then subject to Rule 16 (special urgency), the decision may still be taken if:-~~

- ~~(a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Programme and until the start of the first month to which the next Forward Programme relates;~~
- ~~(b) the Head of **Policy and Governance** Democratic and Legal Services has informed the Chairman of a relevant Overview and Scrutiny Committee, or if there is no such person available, each member of that Committee by notice in writing, of the matter in respect of which the decision is to be made; and~~

~~**As soon as reasonably practicable after complying with sub-paragraphs (a) and (b) above, the Head of Policy and Governance shall make available at the Council Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why it was impracticable to include the item in a forward plan.**~~

- ~~(c) the Head of Democratic and Legal Services has made copies of that notice available to the public at the offices of the Council and on the website.~~
- ~~(d) at least 3 clear days have elapsed since the Head of Democratic and Legal Services complied with (b) and (c).~~

~~Where such a decision is taken collectively, it must be taken in public.~~

#### 16. **SPECIAL URGENCY**

If, by virtue of the date by which a decision must be taken, Rule 15 (general exception) cannot be followed, then the decision can only be taken if the Chairman of the Executive making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act (for example, by



~~reason of a personal interest in the matter), then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.~~

## **15. URGENT DECISIONS**

**If a matter which is likely to be a key decision has not been included in the Forward Programme, then the decision may still be taken if:-**

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Programme;**
- (b) the Head of Policy and Governance has informed the Chairman of a relevant Overview and Scrutiny Committee, or if there is no such person available, each member of that Committee by notice in writing, of the matter in respect of which the decision is to be made;**
- (c) as soon as reasonably practicable, the Head of Policy and Governance shall make available at the Council Offices for inspection by the public, and publish on the Council's website, a notice setting out the reasons why it was impracticable to include the item in a forward plan; and**
- (d) at least three clear days have elapsed since the Head of Policy and Governance has complied with (b) and (c) above.**

**In the event that 3 clear days are not available, the decision may only be made if agreement has been obtained from:**

- (a) the Chairman of the Overview and Scrutiny Committee; or**
- (b) if there is no such person, or the appropriate Chairman of the Overview and Scrutiny Committee is unable to act, the Mayor; or**
- (c) where there is no Chairman of the Overview and Scrutiny Committee or Mayor, the Deputy Mayor,**

**that the making of the decision is urgent and cannot reasonably be deferred.**

## **17. REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committee can require a report**

**If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:-**

- (a) included in the Forward Programme; or**
- (b) the subject of the general exception procedure; or**
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Mayor or Deputy Mayor, under Rule 16;**

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Overview and Scrutiny Chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### 17.2 **Executive's report to Council**

The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

### 17.3 **Quarterly reports on ~~special urgency~~ Urgent decisions**

In any event the Leader will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 15 (~~special urgency~~ **urgent decisions**) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 18. **RECORD OF DECISIONS**

After any meeting of the Executive, the proper officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## 19. **MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

All meetings of the Council, the Executive, or of Committees and Sub-Committees of the Council will be held in public, except in so far as confidential or exempt information is the subject matter of debate.

## 20. **NOTICE OF MEETING OF THE EXECUTIVE**

Members of the Executive will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

The **Executive Director** ~~Chief Executive, the Deputy Chief Executive,~~ the Monitoring Officer, the **Borough Solicitor to the Council**, and their nominees, are entitled to attend any meeting of the Executive.

## 21. DECISIONS BY THE EXECUTIVE

### 21.1 Reports intended to be taken into account

Where the Executive receives a report which it intends to take into account in making any key decision, then the decision will not be made until at least 5 clear days after receipt of that report.

### 21.2 Provision of copies of reports to Overview and Scrutiny Committees

On giving of such a report to the Executive, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### 21.3 Record of decision

As soon as reasonably practicable after an Executive decision has been taken, the Head of **Policy and Governance** ~~Democratic and Legal Services~~ will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by the Executive. This does not require the disclosure of exempt or confidential information or advice.

## 22. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

### 22.1 Rights to copies

Subject to Rule 22.2 below, an Overview and Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Executive and which contains material relating to any business transacted at a meeting of the Executive.

### 22.2 Limit on rights

An Overview and Scrutiny Committee, or its members, will not be entitled to:-

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise.

## 23. **ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### 23.1 **Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Executive unless it contains exempt information upon which the Monitoring Officer will determine whether the document can be made available.

### 23.2 **Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Executive.

### 23.3 **Nature of rights**

These rights of a member are additional to any other right he/she may have.

# **Executive Procedure Rules**

## **LEADER AND EXECUTIVE**

### **1. HOW DOES THE EXECUTIVE OPERATE?**

#### **1.1 Who may make Executive decisions?**

- (i) the Executive as a whole;
- (ii) an officer with identified delegated powers to act on the Council's behalf;
- (iii) nominated members of the Executive acting under joint arrangements with another local authority.

1.2 The Leader will determine the scope of the portfolios and allocate them to members of the Executive.

#### **1.3 Delegation of Executive Functions**

- (a) Where the Executive is responsible for an Executive function, it may delegate further to joint arrangements with another local authority or to an officer of the Council.
- (b) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the Executive, should the occasion arise.

#### **1.4 The Council's Scheme of Delegation and Executive Functions**

The Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

#### **1.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.
- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated and should a conflict of interest arise, the function will be exercised in the first instance by the Executive and otherwise as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.

## 1.6 **Executive Meetings – When and Where?**

The Executive will meet for decision making at least 10 times per year and meetings shall commence at 6.45 p.m., or in special circumstances at such hours as the Executive may fix from time to time. Meetings of the Executive should normally finish by 10.00 p.m. but at a convenient time before then, the Chairman may put to the meeting the options of extending the meeting until 10.30 p.m., continuing until its conclusion or adjourning the meeting. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader. **Special meetings may be convened to consider specific matters and will be called by the Head of Policy and Governance.**

## 1.7 **Public or Private meetings of the Executive?**

The Executive will conduct all its decision-making business in compliance with the Local Government Acts and Access to Information legislation and all decisions will be taken by the Executive at meetings open to the public. This means, amongst other things, that the requirements of the Access to Information legislation will apply to its decision-making meetings. Public notice of meetings will be given and the agenda and reports will be on deposit for public inspection at least five clear working days before each meeting. Meetings will be open to the public and press, but they may be excluded when confidential or exempt business, as defined in the legislation, is to be transacted. All decisions will be recorded and published, together with the reasons and relevant background papers.

All meetings of the Executive that take any decisions will be held in public, except for those parts of the agenda which are exempt. The Access to Information rules set out in Part 4 will be followed. Any members of the Council may receive briefings from officers which will not be open to the public and press.

## 1.8 **Quorum**

The quorum for a meeting of the Executive shall be three members.

## 1.9 **How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution and Council Procedure Rules in Part 4.
- (b)
  - (i) Voting at a meeting of the Executive shall be by vocal consent provided that if one or more members shall indicate dissent then the vote shall be retaken on a show of hands.
  - (ii) In the case of an equality of votes at a meeting of the Executive, the Chairman presiding shall have a second or casting vote.

- (iii) If three members of the Executive request it, the names of those voting for, against and abstaining will be recorded.
- (iv) If any member so desires he may request that it be recorded as to how his vote has been given.

#### 1.10 Principles of Decision-Making

The following conditions should apply to decisions taken by or on the Council's behalf, both in the general public interest and in the interests of ensuring that the Council is able to defend its actions against legal challenge:-

- (a) That members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions;
- (b) That decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation;
- (c) That relevant matters are fully taken into account in decision making;
- (d) That nothing irrelevant is taken into account;
- (e) That the Council's constitution is fully complied with including in particular:-
  - Procedure Rules
  - Contract Procedure Rules
  - Financial Procedure Rules
  - Scheme of Delegation
  - Waverley Local Code of Conduct and the Members' Planning Code of Good Practice
  - Members should make any appropriate declarations of interests
  - Officer Code of Conduct
- (f) That decisions are recorded by officers and published, together with the reasons and relevant background papers.

This means that a clear audit trail of decision-making must be maintained and kept available for future reference. This applies not only to decisions taken by the full Council, the Executive and Committees or Sub-Committees, but also to those taken by officers acting under delegated powers. The Monitoring Officer will be responsible for ensuring that the Council's decision-making processes meet the requirements of the law and comply with principles of good governance.

The Council recognises the need to have an inclusive approach to member decision-making. Accordingly, reports relating to the budget or policy framework will normally be considered by the appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committee may identify any item from the Forward Programme for overview. The comments of the Overview and Scrutiny Committee will be included in the report to the Executive.

#### **1.11 Information before taking decisions**

Before taking decisions or making recommendations to the Council, the Executive will receive a written report. This will include:-

- (a) whether the report contains information which is confidential or may be exempt information;
- (b) the issue to be decided together with analysis/relevant data, any relevant national or regional guidance etc;
- (c) the justification for the recommendation and any other options;
- (d) whether the matter complies with the Council's policy framework and budget, or any subordinate strategies previously approved by the Executive; or whether the decision recommended would amount to a material departure from any of these policies, budgets or strategies;
- (e) any consultations undertaken with other public, private, voluntary and community sector agencies;
- (f) any resource, value for money, equality and diversity, climate change, legal or other implications;
- (g) any collective advice from the Corporate Management Team;
- (h) any comments and advice received from Overview and Scrutiny Committees;
- (i) the ward(s) affected;
- (j) a list of the background papers.

The majority of reports will be commissioned by the Leader and/or the Portfolio Holder, and the responsibility for the content of reports will rest collectively with the Corporate Management Team. In some cases, the Corporate Management Team will initiate a report. In all cases, the Portfolio Holder will be briefed and kept fully informed of the progress of reports at all stages.



The Executive will meet according to a published calendar and the Leader of the Council will be responsible for the overall management and conduct of its business. Together with a Forward Programme covering at least a four month period for the forthcoming business of the Executive, there will be an agenda for meetings of the Executive. This will help to inform the scrutiny process and enable all other members of the Council to be kept up to date on current issues.

Minutes will be kept of each meeting of the Executive. They will be published and made available on the Waverley website and to all members of the Council.

As with decisions taken by the Executive, any decisions taken by officers must be properly documented and should generally follow the principles set out in these procedure rules.

### **1.12 Policy Development – Special Interest Groups (SIGs)**

The Executive may, on the recommendation of the Portfolio Holder, appoint Special Interest Groups to assist it in developing policy, examining specific proposals in depth or progressing major projects.

These bodies are not decision making and have an advisory role only. A detailed protocol is included in Part 4 of the Constitution.

## **2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### **2.1 Who presides?**

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the absence of both, a person appointed to do so by those present shall preside.

### **2.2 Who may attend?**

Details are set out in the Access to Information Rules in Part 4 of this Constitution. All meetings of the Executive shall be open to the press and public although they may be excluded from a meeting of the Executive, according to law, whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present, exempt information would be disclosed to them. In the case of the limited category of confidential information, the public must be excluded from the meeting.

### **2.3 What business?**

At each meeting of the Executive the following business will be conducted:-

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;

- (iii) matters referred to the Executive (whether by a Special Interest Group, an Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the SIG Protocol, Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

**Special meetings convened to consider specific matters will not include public questions, formal or informal, or the minutes of the last meeting.**

## 2.4 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.5 Who can put items on the Executive agenda?

1. The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive or any officer in respect of that matter. The **Executive Director** ~~Chief Executive~~ will comply with the Leader's requests in this respect.
2. The Monitoring Officer and/or the **Head of Policy and Governance** ~~Deputy Chief Executive~~ may include an item for consideration on the agenda of an Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the **Executive Director** ~~Chief Executive~~, ~~Deputy Chief Executive~~ **Head of Policy and Governance** and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## 2.6 Who can attend and speak at Executive Meetings?

Any member of the Council who is not a member of the Executive shall be entitled to attend any meeting of the Executive but not to vote, but he shall be entitled to speak on any specific item for up to four minutes. Any member wishing to do this shall give notice to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ by noon on the day of the meeting.

## 2.7 Dispute Resolution

Any dispute about the jurisdiction of the Executive, for example whether or not a matter is delegated to the Executive or contrary to the policy framework or budget, will be referred to the Monitoring Officer and/or the **Head of Policy and Governance** ~~Deputy Chief Executive~~ for advice as appropriate. If it is resolved not to accept such advice, the final decision as to whether the Executive can take a decision is for the Council to decide.

## 2.8 Urgent Decisions

Any urgent executive or non-executive decisions may be taken by the **Executive Director** ~~Chief Executive~~ after consultation with the Leader, Deputy Leader and appropriate portfolio holder under the existing provisions in the Scheme of Delegation. Any such decisions will be reported to the next appropriate Committee or Executive meeting.

## 2.9 Questions by the Public

Members of the public can ask questions at the Executive in accordance with the provisions in Procedure Rules. The Chairman/Leader and/or the Vice-Chairman/Deputy Leader or appropriate portfolio holder should be invited to respond to the question.

## **Overview and Scrutiny Procedure Rules**

### **1. What will be the number and arrangements for Overview and Scrutiny Committees?**

The Council will establish the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees with the agreement of the Executive.

Currently Waverley has two Committees which take the functions of both Overview and Scrutiny.

The Committee membership is politically proportional and each Committee can consist of up to 19 members. In addition, substitute members are also nominated.

The Chairmen and Vice-Chairmen will be nominated annually at the Council's Annual Meeting or at the Council meeting setting them up. In the event of a single party Executive the Chairmen of the two Overview and Scrutiny Committees shall be elected from nominations put forward by the largest opposition group, with candidates for Vice-Chairmen elected from nominations put forward by the majority group.

### **2. Who may sit on Overview and Scrutiny Committees?**

All councillors except for members of the Executive may be members of an Overview and Scrutiny Committee. The appropriate portfolio holder(s) can attend an Overview and Scrutiny Committee where matters relating to their area are included in the agenda, and shall have a right to address the Committee.

### **3. Co-optees**

External representatives may be co-opted by the Council as non-voting members onto Overview and Scrutiny Committees on an ad hoc basis, up to a maximum of three per committee. Although they have no voting rights, they can request that matters of concern to them be placed on the agenda and discussed at the relevant committee.

### **4. Meetings of the Overview and Scrutiny Committees**

There shall be at least five ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the chairman and vice-chairman together of the relevant Overview and Scrutiny Committee or by the proper officer if they consider it necessary or appropriate.

In addition, meetings to consider called-in items will be held as and when is appropriate, to coincide with the timescale for scrutiny.

All meetings will be held in open session with the press and public able to attend, except for the consideration of exempt or confidential information. Minutes will be taken by officers at each meeting of the Committees and published. Procedure Rules will apply to the procedures at meetings and the existing scheme for substitutes will continue.

Any member who has a personal or prejudicial interest in any matter on the agenda must disclose the interest and may be required to withdraw from the meeting when appropriate, in accordance with the Waverley Local Code of Conduct.

5. **Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who chairs Overview and Scrutiny Committee meetings?**

In the event of a single party Executive, the Chairmen of the two Overview and Scrutiny Committees should be nominated by the largest minority political group on the Council, subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to 6 members).

7. **Work programme**

The Overview and Scrutiny Committees/sub-committees will be responsible for setting their own work programme within the overall framework set by the Council and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council. Full Council may wish to decide what policy reviews or key issues should be of priority for a Committee in the coming year.

8. **Agenda items**

The Chairman or any member of the relevant Overview and Scrutiny Committee shall be entitled to give notice to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda. This does not, however, give any rights to an individual member to commission reports.

If a Chairman, or any other member of an Overview and Scrutiny Committee asks for an item to be included on an agenda, the item will be included as a heading only, and the Committee then has to agree that they would like to see the item added to the work programme. Officers can then proceed with producing a detailed report on the issue for the next appropriate meeting of the Committee.

Any Councillor shall be entitled to give notice to the Head of **Policy and Governance** ~~Democratic and Legal Services~~ of a Councillor Call for Action. The detailed procedures for this are set out in Annexe 3 to the Overview and Scrutiny Procedure rules. The member raising the call for action will have the right to attend the meeting to explain their reasons for the call for action. That item will be the subject of an initial report, if accepted by the Chairman and Vice-Chairman

The Overview and Scrutiny Committees shall also respond, at the earliest occasion consistent with due notice, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Committee at the earliest opportunity.

It is intended that Overview and Scrutiny Committees will be involved from an early stage in the decision-making process, examining issues before decisions are taken by the Executive, rather than only after a decision is taken by operating the call-in procedure. Accordingly, matters relating to the budget or policy framework will normally be considered by the appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committees may identify any item from the rolling programme for overview. The comments of the appropriate Committee will be reported to the Executive.

The Chairmen and Vice-Chairmen will hold a briefing meeting with the appropriate officers to finalise the committee agenda.

Overview and Scrutiny Committees will be serviced by the Democratic Services Team.

## 9. **Policy review and development**

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## 10. **Appointment of Sub-Committees**

Overview and Scrutiny Committees may seek the approval of the Executive to appoint Sub-Committees where they feel a smaller group of members is better suited to carry out a particular task.

## 11. **Reports from Overview and Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework) and to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Executive, and if one third of the members present request it, then one minority report may be prepared and submitted for consideration by the Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Overview and Scrutiny Committee as quickly as the rules permit.

## 12. **Making sure that Overview and Scrutiny reports are considered by the Executive**

All Overview and Scrutiny reports shall be considered by the Executive as expeditiously as possible and at the very maximum, within two months of the work being completed.

## 13. **Rights of Overview and Scrutiny Committee members to documents**

- (a) In addition to their rights as councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.
- (c) Overview and Scrutiny Committees shall have access to all relevant background papers and documents. In the case of any dispute, the Monitoring Officer will adjudicate and if the documents are of a confidential nature, members must respect their confidentiality and use them only in relation to the work of that Committee.
- (d) Co-opted members can have access to papers relevant to the work of their Committee, but excluding any matter relating to an individual, either client or tenant or member of staff.

#### 14. **Members and officers giving account – “Select Committee” mode**

(a) Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the **Executive Director** ~~Chief Executive~~ and/or any senior officer to appear before it to explain in relation to matters within their remit:-

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance

and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Head of **Policy and Governance** ~~Democratic and Legal Services~~. Head of **Policy and Governance** ~~Democratic and Legal Services~~ shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer, arrange an alternative date for attendance as soon as possible.

#### 15. **Attendance by others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance is optional.



## 16. Call-in

**Call-in should only be used as a last resort. This can be where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).**

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 1 day of being made. Copies of the decision bulletin will be sent to all members of the Council within the same timescale, by the Head of **Policy and Governance** ~~Democratic and Legal Services~~.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless four members (including Substitute Members) of an Overview and Scrutiny Committee object to it and call it in.
- (c) During that period, the Head of **Policy and Governance** ~~Democratic and Legal Services~~ shall call-in a decision for scrutiny by the committee if so requested by any four members (including Substitute Members) of the committee **where reasons as stated in the call-in form attached at Annexe 2, are valid in the context of Article 13 of the Constitution..** Should any Substitute Member be one of those proposing a call-in, he shall have a right to attend the Committee and speak, but not to vote unless he is substituting at that meeting for another Member. ~~The Head of Policy and Governance shall then notify the call-in to the decision-taker and the Chairman and Vice-Chairman of the relevant Overview and Scrutiny Committee.~~ **The Head of Policy and Governance** He/she shall call a meeting of the relevant Overview and Scrutiny Committee on such date as he/she may determine or as reserved in the calendar of meetings, where possible after consultation with the chair of the committee, and in any case within 5 working days of the decision to call-in.

A call-in can only be withdrawn unanimously by those members who requested it.

- (d) As well as reviewing the report submitted to the Executive in fulfilling the scrutiny role, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the head of paid service and/or any senior officer to appear before it to explain the particular decision or series of decisions, and it is the duty of those persons to attend if so required. The Chairman will notify the people required to attend immediately after the expiry of the call-in deadline.

- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Executive for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council if outside the policy framework. If referred to the decision maker they shall then amend the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the Executive, the decision shall take effect on the date of the Overview and Scrutiny meeting.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the Executive, together with the Council's views on the decision. The Executive shall choose whether to amend the decision or not before reaching a final decision and implementing it and a meeting will be convened to reconsider the Council request.

### **“Call-In” Process**

The process is proposed as follows:-

**Step 1** A list of Executive decisions will be published and notice given that the decisions will be implemented after five working days from date of publication unless called-in under this procedure.

**Step 2** Within the period of five working days, four members of the appropriate Overview and Scrutiny Committee (including Substitute Members) may call a meeting of the Committee to review a decision, by notifying the Head of **Policy and Governance** Democratic and Legal Services by telephone, fax, e-mail or letter. **The call-in form attached at Annexe 2 must be completed setting out the reason for the Call-in, Members involved and witnesses to be called and sent to the Head of Policy and Governance.**

**Step 3** The Overview and Scrutiny Committee will then meet and may resolve by majority vote to:-

- a) propose an alternative course of action, or
- b) request that it be considered and debated by the full Council if the Committee is advised by the Monitoring Officer that the decision is contrary to the Council's policy framework or is unlawful.

**Step 4** If the matter is referred back to the Executive, it must reconsider the decision in the light of the reference from the Overview and Scrutiny Committee's decision and would decide whether to change it before adopting a final decision. The chairman (or vice-chairman in their

absence) of the Overview and Scrutiny Committee is able to attend and address the Executive meeting during discussion of the matter.

### **Exceptions**

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-
  - (i) that four elected members (including substitute members) of an Overview and Scrutiny Committee are needed for a decision to be called in **and the protocol and form attached at Annexe 2 must be followed and completed;**
  - (ii) An Executive decision may only be called-in by an Overview and Scrutiny Committee once.

### **Call-in and Urgency**

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive, the decision is an urgent one, and therefore not subject to call-in. The Mayor, in conjunction with the Monitoring Officer, must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required, in conjunction with the Monitoring Officer. In the absence of both, the head of paid service or his/her nominee's consent shall be required, again in conjunction with the Monitoring Officer. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

### **17. Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees (and sub-committees) shall consider the following business:-
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) responses of the Executive to reports of the Overview and Scrutiny Committee;

- (iv) the business otherwise set out on the agenda for the meeting, with overview items identified and taken first, then select committee mode matters;
  - (v) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision; and
  - (vi) questions by the public.
- (b) Where the Overview and Scrutiny Committee conducts investigations in select committee mode (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-
- (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee (or Sub-Committee) shall prepare a report, for submission to the Executive and shall make its report and findings public.

## 18. **Questions by the Public**

**Unless a special meeting of the Overview and Scrutiny Committee is called,** Members of the public can ask questions at Overview and Scrutiny Committees in accordance with the provisions in the Procedure Rules. The Chairman and/or the Vice-Chairman should be invited to respond to the question.

## 19. **Matters within the remit of more than one Overview and Scrutiny Committee - Invitation of Chairman of other Committee to Participate**

Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other Overview and Scrutiny Committee, then the Committee conducting the review shall invite the Chairman and Vice-Chairman of the other committee (or his/her nominee (s)) to attend its meetings when the matter is being reviewed.

[updated January 2014]

# ANNEXE 1

## WAVERLEY'S PETITIONS SCHEME

This is Waverley Borough Council's Petitions Scheme, which explains how petitions on matters of local importance can be sent to the Council, how we will deal with them and how we will respond to you. The Scheme has been created under Section 11 (1) of the Local Democracy, Economic Development and Construction Act, 2009.

The Council welcomes petitions as one way in which local people can express their needs and concerns. Before submitting a petition to the Council, the public should be advised that there may be a simpler way to influence decision-making in Waverley (to see the many ways you can influence decision-making, please go to [www.waverley.gov.uk/consultation](http://www.waverley.gov.uk/consultation) ).

You can submit petitions online at Surrey's share e-petition website (**link to website**), or you can send them to us by post at:

Waverley Petitions  
Democratic Services  
Waverley Borough Council  
The Buryes  
Godalming  
Surrey  
GU7 1HR

### **Criteria for submitting a petition**

Petitions to Waverley must relate to one of its functions (click [here](#) for a list of the services we provide to the community, or contact Democratic Services on 01483 523351). To sign a petition submitted to Waverley, you must either live, work or study in the Borough.

Surrey County Council will consider petitions that relate to improvements in the social or economic well being of the area, which they, or the Primary Care Trust, Police Authority or Fire and Rescue Authority can contribute to. You can use the e-petitions facility to send one of these public bodies a petition, or you can send it to Surrey County Council at:

**(Surrey CC address to be inserted)**

## **Number of signatures required to submit a petition to Waverley**

For a petition to have the desired response (see the table below) it must have the required number of signatures on it.

How many signatures are needed?	How will Waverley respond?	What happens next?
Up to 500. <b>(not treated as a petition)</b>	<p><b>An officer will respond to you</b></p> <p>You will receive a response from the appropriate responding officer, who is identified by Democratic Services when your petition is received. The petition will be treated as a <a href="#">Stage One complaint</a>.</p>	
500-999.	<p><b>A member of the Executive will respond to you</b></p> <p>You will receive a response from the appropriate portfolio-holder (this is a councillor who is a member of the cabinet and who has special responsibility for certain areas of Waverley's work).</p>	
1,000-1,999.	<p><b>The Executive will consider your petition at a meeting</b></p> <p>If you wish to present the petition yourself, you will need to give ten working days notice to Democratic Services. You will be given a maximum of four minutes to present your petition.</p>	<p>The Executive will decide whether to refer the matter to an appropriate Overview and Scrutiny Committee for further consideration, or whether to make a decision on your demands at the meeting.</p> <p>Once the Overview and Scrutiny Committee have considered the matter, they will make a recommendation back to the Executive who will make a final decision.</p>

2,000-4,999.	<p><b>A relevant senior officer will be called to a meeting of an Overview and Scrutiny Committee to give evidence (if you have requested this in your petition)</b></p> <p>You must explain, when you submit your petition, what information you want from the officer. If you want to ask the officer questions yourself, you will need to give ten working day's notice to Democratic Services. You will be given a maximum of four minutes to introduce your petition. Only the <b>Executive Director</b> <del>Chief Executive, Deputy Chief Executive, Strategic Directors and Heads of Service</del> can be called to account.</p>	The Overview and Scrutiny Committee will make a recommendation based on the evidence given to Executive, who will then make a decision on your petition.
5,000 or more.	<p><b>Your petition will be debated at a meeting of the full Council.</b></p> <p>If you wish to present your petition to the Council, you must give 10 working day's notice to Democratic Services. You will be given a maximum of four minutes to introduce your petition.</p>	The full Council will make a decision on your petition. They could refer it to an appropriate Overview and Scrutiny Committee for further investigation, but this would be unusual.

Waverley may also choose to take additional action where it is considered appropriate. Such action could include:

- Holding a meeting with petitioners.
- Conducting an internal inquiry.
- Holding a public consultation.

### **Rejection of petitions**

Waverley will not accept petitions which:

- We consider to be vexatious, abusive or otherwise inappropriate. The **Executive Director** ~~Chief Executive~~ will take the decision on whether a petition is any of the above things and will explain this to you in writing.

- Relate to planning or licensing applications (as there are already procedures on how to object to these) or other areas on which there are existing rights of appeal, such as council tax banding and/or business tax rates.
- Are on the same or a similar topic to one that the Council has received in the last twelve months.

### **Checklist for submitting a petition to Waverley:**

Below is a checklist for submitting a petition to Waverley, which may be helpful to ensure you have met all the requirements of the scheme:

- A clear, concise statement at the top of the petition which explains a) the subject of the petition and b) what action you want the council to take
- Identification of the petition organiser using name, address and contact details
- Names and addresses of all signatories. All signatories must live, work or study in the borough and provide the relevant address. Addresses will be checked by Waverley Borough Council and where they cannot be verified, the signatures will be rejected.**
- For the petition to be treated as a petition (rather than a complaint), at least 500 signatures.
- If the petition has 2,000 to 4,999 signatures– an indication of whether you want to call a senior officer to account, which senior officer you want to call to account and what you want them to tell you.
- Ensure your petition is not concerning a planning or licensing application
- Ensure your petition does not relate to an issue on which there is already a right of appeal (Housing Benefit decisions, Licensing decisions and Planning decisions)
- Ensure your petition doesn't relate to an issue or is on a similar subject to one that the Council has received in the last twelve months.

### **What we will do when we receive your petition**

- We will acknowledge your petition within 5 days if it is submitted electronically (**link to Surrey E-Petitions site**), and within 10 days from the date of receipt if it is submitted by post.
- The acknowledgement will say what we propose to do with the petition. (see trigger thresholds) and tell you the date of the meeting it will go to (if it is to go to a meeting). If appropriate, we will outline what we may be able to do in response to the petition.
- We will publish the petition, acknowledgement and all stages of correspondence relating to it on our website [www.waverley.gov.uk](http://www.waverley.gov.uk) unless it would be inappropriate to do this.

### **What to do if you feel your petition has not been dealt with properly**

- You should submit a complaint in writing (letter or email) to Waverley (if we have dealt with your petition) or Surrey (if they have). The complaint should be submitted no later than 28 working days (**Surrey requirements to be**



**inserted)** from receiving the authority's response to your petition. It would be helpful if you would explain in what way you feel the petition has not been dealt with properly, and whether this relates to the decision taken or the process.

- A reviewing officer will be identified by Democratic Services, to consider the way in which the petition was handled. They will normally refer the matter to the appropriate Overview and Scrutiny Committee, which will consider the adequacy of the response.
- The **Executive Director** ~~Chief Executive~~ will respond via letter to the petition organiser within 28 days of receipt of the request for review.

**CALL-IN PROTOCOL FOR OVERVIEW AND SCRUTINY COMMITTEES**

1. That the instigator of the call-in consult with officers about the criteria and consult and inform the relevant Chairman on the Committee prior to proceeding with the call-in.

*Rationale:*

*To attain clarity of intention in the working and for inclusion purposes.*

2. That the Chair shall give consideration to relinquishing the Chair for an item of call-in where to do otherwise might lead to an impression of partiality.

*Rationale:*

*To demonstrate the impartiality of the Chair, particularly where an individual Chair had strong interests in relation to the debate.*

3. Ideally, reports should not be circulated on the night (unless in extremely urgent circumstances) but in advance of the meeting at the same time as the agenda.

*Rationale:*

*In order to allow Members sufficient time to assimilate information and for its integrity to be checked by the officers if necessary.*

4. Order of Debate

(a) Lead Officer to be called to introduce the report.

(b) Chairman of the relevant Overview and Scrutiny Committee or a spokesperson for the 5 Members who have signed the call-in form to have the opportunity to introduce the subject and explain their reasons for call-in, within a time limit of 10 minutes.

(c) Portfolio Holder (if present) to present decision of Executive and to call any witnesses in support of that decision.

(d) General debate by Members of the Committee.

(g) Committee makes decision regarding the call-in.

*Rationale:*

*To promote the smooth running of the debate and for clarification purposes.*

5. Rights of Portfolio Holders

Any Portfolio Holder who is called as a witness shall have the right to be accompanied by an officer or other person of their choosing to assist them at the meeting.

6. Schedule of Meetings

Following the announcement of the date of the meeting within six working days of the call-in, where possible at least three to five working days expire between the call-in meeting and the reconsideration of the decision at Cabinet.

*Rationale:*

*To allow proper reconsideration of the decision.*

## CALL-IN FORM

**TO: Head of Policy and Governance**

**FROM:** .....

### **1. What decision is being called-in?**

### **2. Why is the decision being called-in?**

The Constitution states that call-in should only be used as a last resort when the principles set out under Article 13, page C17 of the constitution have not been adhered to. These principles are also set out at the bottom of this form.

I / We call-in this decision because:

### **3. Who is calling-in the decision?** (please note: Each member noted below must have written/emailed/phoned the Head of Policy and Governance to confirm that they support the call-in)

Councillor (Main contact)  
Councillor  
Councillor  
Councillor  
Councillor

### **4. What information do you want to be available at the call-in meeting?**

*(Please underline any of the following options that you would like to see being provided at this meeting)*

Portfolio Holder to be present at the meeting

Portfolio Holder to make a presentation at the meeting

Relevant Officer to make a presentation

Expert witness or interested party to be present

Site visit

Comparative research

Additional written information

Other - please specify

**Date of Call in Request:**

Date received (Office use only)

.....

Received by

.....

**NOTES**

The constitution suggests that call-in should only be used in exceptional circumstances. Call-in may occur if Members believe that a decision has not been made in accordance with the following principles:

- Proportionality – ie the decision must be proportionate to the desired outcome
- Due consultation with the relevant parties and Officers
- Human rights have been respected
- There has been a presumption in favour of openness
- Clear aims and desirable outcomes have been identified
- An explanation has not been given for what options were considered in arriving at a decision and the reason for that decision.

If Members are uncertain whether any of the above criteria would apply to a decision that they are concerned about, they may wish to contact the Head of Policy and Governance for advice.