

To: All Members of the EXECUTIVE

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Date: 28 June 2013

Dear Councillor

EXECUTIVE – 2 JULY 2013

I refer to the agenda for the meeting of the Executive on Tuesday next, 2 July 2013 and now enclose the following report which was marked as To Follow in the agenda:-

21. REPORT FROM THE STANDARDS PANEL (Appendix P)

The Standards Panel met on 25 June to discuss the review of the Standards Framework, along with a revised Planning Code of Conduct and Member/Officer protocol. The documents showing tracked changes were attached to the Executive agenda.

The minutes from the meeting of the Panel are now attached and these include amended codes (without tracked changes) for approval by the Executive before they are submitted to the Council for adoption.

Recommendation

**It is recommended that**

- 1. the revised Waverley Code of Conduct and Arrangements for handling complaints at Annexes 1 and 2 be recommended to the Council for adoption;**
- 2. the Independent Persons and Town and Parish representatives be reappointed by the Council until May 2015;**
- 3. the revisions to the Constitution, attached at Annexe 4, be approved and recommended to the Council for adoption;**
- 4. the Code of Conduct be reviewed again after the next Borough Elections in May 2015; and**

5. **the Councillors' planning Code of Good Practice, the Waverley Officer/Member Protocol and the Monitoring Officer Protocol, attached at Annexes 5-7, be recommended to the Council for adoption.**

Also attached are the observations from the Corporate Overview and Scrutiny Committee (on blue paper) which met on 24 June 2013, relating to the following Executive Agenda Items:-

10. Financial Support for Community Interest Companies
17. Waverley's Homelessness Strategy 2013-2018
18. Home Improvement Policy
19. Gas Safety, Anti-Social Behaviour (ASB) and Decant Policies
24. New arrangements for Housing Complaints and Role of Designated Persons
25. Performance Management Exception Report Q4 (Jan-March 2013) and end of Year Outturn 2012/13.

Yours sincerely

Emma McQuillan  
Democratic Services Manager

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE STANDARDS PANEL  
25<sup>TH</sup> JUNE 2013

SUBMITTED TO THE EXECUTIVE MEETING – 2<sup>ND</sup> JULY 2013

SUBMITTED TO THE COUNCIL MEETING – 16<sup>TH</sup> JULY 2013

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

- |                                     |                       |
|-------------------------------------|-----------------------|
| * Cllr Michael Goodridge (Chairman) | Cllr Elliot Nichols   |
| * Cllr Jenny Else                   | * Cllr Bryn Morgan    |
| * Cllr Richard Gates                | Cllr Janet Somerville |
| * Cllr Stephen Hill                 | * Cllr John Ward      |
| * Cllr Simon Inchbald               |                       |

Town and Parish Representatives

- \* Cllr Kevin Deanus
- Cllr Patrick Stewart

\*Present

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1)  
Cllr Michael Goodridge was appointed as Chairman of the Standards Panel for the Council Year 2013/14.
2. APOLOGIES FOR ABSENCE (Agenda Item 2)  
  
Apologies for absence were received from Councillors Elliot Nichols, Janet Somerville and Patrick Stewart.
3. DISCLOSURE OF INTERESTS (Agenda Item 3)  
There were no disclosures of interest.

**PART I – RECOMMENDATIONS TO COUNCIL**

4. REVIEW OF THE NEW STANDARDS FRAMEWORK (Agenda Item 5)
  - 4.1 The Localism Act gave Councils an explicit duty to promote and maintain high standards of Member conduct. It abolished the statutory model Code of Conduct and replaced it with an obligation on the Council to adopt a Code dealing with the high standard of conduct that is expected of Members when acting in their official capacity. The Code had to include such provision as the Council considers appropriate for the registration and disclosure of pecuniary and other interests. It set up a new category of disclosable pecuniary interests which involve very strong sanctions, and made failure to disclose this type of interest a criminal offence.

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- 4.2 The Government did not prescribe what local Codes must contain, other than stipulating that they must be consistent with the following principles of holding public office first set out by Lord Nolan's Committee on Standards in Public Life in the 1990s: -
- selflessness
  - integrity
  - objectivity
  - accountability
  - openness
  - honesty
  - leadership
- 4.3 The Code adopted by the Council in July 2012 is attached as Annexe 1. The Code applies to both elected councillors and co-opted members when they act in their official capacity (paragraph 1(1)). The seven principles of public life are given prominence in paragraph 1(3).
- 4.4 The Council agreed to include some general obligations of good conduct transposed from the template code provided by the Minister for Local Government, these included: -
- treating other persons with respect;
  - not breaching confidences except in limited circumstances; and
  - only using the resources of the Council for proper purposes.
- 4.5 The Code cautions against the acceptance of excessive gifts or hospitality but there was no requirement to register individual items. Council agreed to continue to require registration of gifts or hospitality if the estimated value exceeded £25, to help maintain public confidence in Waverley's high standards. The Panel, at its meeting on 25 June, commented that this item was too low and had been in place for some time. It was suggested that the levels for gifts and hospitality could be different and the Panel proposed increasing the levels to £50 for gifts and £100 for hospitality.
- 4.6 The Code made provision for the registration and disclosure of pecuniary interests. The annexe to the Code sets out the definition of these. Council also agreed it was appropriate to make provision for a limited number of non-pecuniary interests to be registered. These covered membership of or occupation of a position of general control or management of the following bodies: -
- bodies to which the Member has been nominated by the Council;
  - bodies exercising functions of a public nature;
  - bodies directed to charitable purposes; and
  - bodies whose principal purpose includes the influence of public opinion
- 4.8 Paragraph 7 of the draft Code takes account of the new legislative position on allegations of bias or predetermination .
- 4.9 The Council appointed two Independent Persons whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, or at any other stage. These are Vivienne Cameron and Tony Allenby. The Member against which an allegation has been made can also consult them. They have been consulted on three initial investigations.

- 4.10 They have also been asked for general views on the operation of the Code. One of the Persons, Tony Allenby, has suggested the Council might look again at the wording of the Code relating to non-pecuniary interests such as Club or Society membership, and whether this is necessary particularly for ordinary members. Vivienne Cameron has suggested that the Independent Persons might become more involved overall rather than just being consulted in writing. The Standards Panel considered these comments and felt that to maintain their independence, Independent Persons should not be invited to meetings, unless regarding matters where their views were sought, but that it would be beneficial for the Chairman to meet informally about standards matters (not particularly cases) with the Monitoring Officer, on a 6monthly basis. Furthermore, Members felt that whether or not membership to clubs or societies should be disclosed at meetings as a non-pecuniary interest was up to the Member concerned to decide, in consultation with the Monitoring Officer if required. Members felt that retaining disclosure of Local Club and Society membership as non-pecuniary interests was still important in retaining community confidence in transparency.
- 4.11 The intention in handling allegations was to provide for arrangements that are substantially simpler and clearer than the previous procedures. Council adopted the procedures in July 2012 which have since been revised by the Standards Panel at its meeting on 25<sup>th</sup> June 2013 and the proposed revised arrangements are set out in Annexe 2.
- 4.12 When Council adopted the new Scheme of Members' Allowances it agreed to allocate an allowance to the Chairman of the new Standards Panel, of the current level of £1,761. This represented a saving of £1,200 on the Members' Allowances budget.
- 4.13 Officers worked through the Surrey Secretaries Group to aim to have broadly consistent Codes of Conduct across Surrey. This has largely been achieved, though the essence of the Localism Act approach is that Councils should be free to adopt arrangements that reflect their particular circumstances.
- 4.14 Council agreed that dispensations where Members were not able to discuss an item because of interests should be dealt by the Monitoring Officer in the following circumstances –
- (i) That so many Members of the decision-making body have disclosable pecuniary interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
  - (ii) That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on party lines on the matter, in which case, it would be appropriate to grant a dispensation to enable them to participate;
  - (iii) That the authority considers that the dispensation is in the interests of persons living in the authority's area;

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- (iv) That, without a dispensation, no member of the Executive would be able to participate on this matter; or
  - (v) That the Council considers that it is otherwise appropriate to grant a dispensation. This will inevitably be fact specific.
- 4.15 Any grant of a dispensation must specify how long it lasts for, up to a maximum of 4 years.
- 4.16 All Councillors were asked for their views on the operation of the Code, and three responded and their comments are set out in Annexe 3. Two of the Members did not feel it appropriate to have a full review at this stage apart from looking again at the level of hospitality specified.
- 4.17 One Councillor gave detailed comments relating to a particular Hearing which started under the previous Code. The aim of the new arrangements was to meet several of the criticisms raised, and to date there have been no Hearings of the type the Councillor refers to under the new Code.
- 4.18 Under the new arrangements, the Monitoring Officer is the first contact for all complaints. The arrangements anticipate an initial review, and if necessary a consultation with the Independent Person. If the complaint is trivial or a breach of the Code is not specified, the process may end there with the complainant being given reasons. In the last ten months two complaints have been dealt with by the Monitoring Officer responding, and in three further cases a more detailed initial investigation has been carried out by the Monitoring Officer, the Councillors the subject of the complaint interviewed and the views of the Independent Persons sought on the action proposed. These views have proved very helpful and constructive, and given the process the element of Independent scrutiny that is important in maintaining public confidence in the new Arrangements. This early stage provides for the possibility of informal resolution without a formal investigation.
- 4.19 If a complaint alleged the commission of a criminal offence relating to a declarable pecuniary interest, the police would need to be informed. However, no such complaints have been received.
- 4.20 If the Monitoring Officer feels an investigation is appropriate, the investigative procedure is set out in paragraph 5 of the note. It has not been necessary so far to use this procedure.
- 4.21 One issue that has been highlighted by an investigation into a complaint under the previous Code is the need for treating investigation reports as confidential. The Panel considered this and made some amendments to strengthen and clarify the Code and arrangements to deal with this.
- 4.22 The procedure for a Panel hearing is set out in paragraph 7.2 of the arrangements. A summary of possible actions, if a breach of the Code is established, is provided in paragraph 8. On request of the Standards Panel, the Monitoring Officer agreed to find out and clarify that these are the same sanctions available to a Town/Parish Council on receipt of a Town/Parish Councillor complaint.

- 4.23 The Standards Panel, having considered revisions to the Code of Conduct and the Arrangements, agreed to recommend the following amendments which are reflected in the attached documents:
- The hospitality limit should be increased to £100 and gifts to £50.
  - It should be made clear in the Arrangements that Panel Members cannot represent Members or contact other Panel Members about a complaint and nor shall any other representative contact the Panel Members, and if any Member has had contact, they should not continue to take part on a Panel.
  - There should be included a statement that all Parties should work together to complete the process within reasonable timescales.
  - The Code and arrangements should be strengthened to make it clear that investigation reports are confidential and that any breach of this would be treated as a breach of the Code.
- 4.24 The current constitution reflects the previous standards regime. A suggested update to this considered by the Standards Panel is attached as Annexe 4.
- 4.25 The Monitoring Officer and Deputy arranged three training sessions for all Waverley Members on the new framework . Training sessions were also organised for all Town and Parish Councils, and training given on two occasions to a Town Council following a Hearings Panel decision on a complaint begun under the previous arrangements. Further training on this, and the Protocols/Good practice guides set out in the next item will be arranged following their adoption.

**The Standards Panel now  
RECOMMENDS that**

1. **The revised Waverley Code of Conduct and Arrangements for handling complaints at Annexes 1 and 2 be recommended to the Council for adoption;**
  2. **The Independent Persons and Town/Parish representatives be reappointed by the Council until May 2015;**
  3. **The revisions to the Constitution, attached at Annexe 4, be approved and recommended to the Council for adoption; and**
  4. **The Code of Conduct be reviewed again after the next Borough Elections in May 2015.**
5. REVIEW OF COUNCILLORS' PLANNING CODE OF GOOD PRACTICE, MEMBER/OFFICER PROTOCOL AND MONITORING OFFICER PROTOCOL (Agenda Item 6)
- 5.1 It has been a number of years since the Councillors' Planning Code of Good Practice, attached at Annexe 5, the Waverley Officer/Member Protocol, attached at Annexe 6, and the Monitoring Officer Protocol, attached at Annexe 7, have been reviewed. There have been a number of changes in legislation, structural changes within the Council as well as some

member/officer cases over the last few years which have required a review of these documents and amendments to be made.

- 5.2 The Standards Panel considered amendments to these documents at its meeting on 25<sup>th</sup> June 2013 and the final versions are attached for the Executive to consider and recommend to Council for their adoption. One particular issue that the Panel discussed was about strengthening the Planning Code of Conduct to ensure it was clear to councillors that they must not participate in the vote on a planning application if they arrive late or are not present for the entire decision-making proceedings. This point will be emphasised during training sessions on these codes which will be arranged in September. During the discussion, the Standards Panel also recommended that a good practice guide should be established for other regulatory committees, such as Licensing.

### **The Standards Panel now**

#### **RECOMMENDS that**

5. **The Councillors' Planning Code of Good Practice, the Waverley Officer/Member Protocol and the Monitoring Officer Protocol, attached at Annexes 5-7, be recommended to the Council for adoption.**

### **PARTS II AND III – MATTERS OF REPORT**

#### **Background Papers**

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

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

There were no matters falling within this category.

#### **Part III – Brief summaries of other matters dealt with**

There were no matters falling within this category.

**The meeting commenced at 5pm and concluded at 6.23pm.**

Chairman



## ANNEXE 5

## The Waverley Members' Code of Conduct

### Introduction and Interpretation

1. (1) This Code applies to you as a Member of Waverley Borough Council ("the Council") when you act in your role as a Member.
- (2) You are a representative of the Council and the public will view you as such. Your actions can impact on how the Council as a whole is viewed.
- (3) This Code is based on and is consistent with the principles of public life set out in Section 28 Localism Act 2011 which Waverley endorses: -
  - selflessness
  - integrity
  - objectivity
  - accountability
  - openness
  - honesty
  - leadership

Waverley is under a duty to promote and maintain high standards of conduct by members
- (4) It is your responsibility to comply with the provisions of this Code when acting in your capacity as a Member.
- (5) In this Code –
  - "meeting" means any meeting of
    - (a) the Council;
    - (b) the Executive;
    - (c) any of the Council's committees, sub-committees, joint committees, joint sub-committees, area committees, Special interest Groups;

"Member" includes a co-opted member and an appointed member.

### General Obligations

2. (1) **You must** always treat member colleagues, officers, other organizations and members of the public with respect.
- (2) **You must not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct by Members.
- (3) **You must not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is –
    - (aa) reasonable and in the public interest;

- (bb) made in good faith and in compliance with the reasonable requirements of the Council; and
    - (cc) you have consulted the Monitoring Officer or taken other independent legal advice prior to its release.
  - (4) **You must not** prevent another person from gaining access to information to which that person is entitled by law.
  - (5) **You must not** use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.
3. When using or authorising the use by others of the resources of the Council -
- (1) **Do** act in accordance with the Council's reasonable requirements and policies;
  - (2) **Do** ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (3) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

#### **Gifts and Hospitality**

- 4. (1) **Do** exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.
- (2) **Do not** accept significant gifts or hospitality from persons seeking to acquire, develop or do business with the Council or from persons who may apply to the Council for any permission, licence or other significant advantage.
- (3) **Do** register with the Monitoring Officer any gift with an estimated value of at least £50 or hospitality with an estimated value of £100 within 28 days of its receipt.

#### **Registration of Interests**

- 5. (1) You must notify the Monitoring Officer of your disclosable pecuniary interests, or other interests which the Council has decided are appropriate for registration. On election, you must do this within 28 days of being elected or appointed to office. Details of disclosable pecuniary interests are set out in the Annexe to this Code.
- (2) **Do** similarly notify the Monitoring Officer of any disclosable pecuniary or other interests not already registered within 28 days of your re-election or re-appointment to office.
- (3) **Do** be aware that disclosable pecuniary interests include not only your interests but also the interests of your spouse or civil partner, a person with whom you are living as husband or wife or a person with whom you are living as if they were a civil partner, so far as you are aware of the interests of that person.
- (4) **Do** be aware that the Council has decided that it is appropriate for you to register and disclose non-pecuniary interests that arise from your membership of or your occupation of a position of general control or management in the following bodies -
  - (i) bodies to which you have been appointed or nominated by the Council;
  - (ii) bodies exercising functions of a public nature;
  - (iii) bodies directed to charitable purposes;
  - (iv) bodies one of whose principal purposes include the influence of public opinion or policy.

## **Disclosure of Interests and Participation**

6. (1) **Do** disclose to a meeting at which you are present any disclosable pecuniary interest, or other interest which the Council has decided is appropriate for disclosure.
- (2) **Do** notify the Monitoring Officer of any interest not already registered that is disclosed to a meeting under paragraph 6(1) above within 28 days of the disclosure.
- (3) **Do not** participate in any discussion, or vote, where you have a disclosable pecuniary interest in a matter. **Do** withdraw from the meeting during the consideration of the matter.

## **Decision-making and Predetermination**

7. (1) Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life, you should not be prohibited from participating in a decision in your political role as a Member.
- (2) However, **do not** place yourself under any financial or other obligation to outside individuals or organizations that might seek to influence you in the performance of your official duties.
- (3) When making a decision, **do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be made, listening to the advice of relevant parties, including advice from officers, and taking all relevant information into consideration, remaining objective and making decisions on merit.

## **ANNEXE – DISCLOSABLE PECUNIARY INTERESTS**

### **1. Employment, office, trade, profession or vocation**

Any employment, office, trade, profession or vocation carried on for profit or gain.

### **2. Sponsorship**

Any payment or provision of any other financial benefit (other than from the Council) made or provided within the period of 12 months ending with the day on which you give a notification for the purposes of section 30(1) or section 31(7) of the Localism Act 2011 in respect of any expenses incurred in carrying out your duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

### **3. Contracts**

Any contract which is made between you (or a body in which you have a beneficial interest) and the Council-

- (a) under which goods or services are to be provided or works are to be executed; and
- (b) which has not been fully discharged.

### **4. Land**

Any beneficial interest in land which is within the area of the Council.

**5. Licences**

Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.

**6. Corporate Tenancies**

Any tenancy where (to your knowledge)-

- (a) the landlord is the Council; and
- (b) the tenant is a body in which you have a beneficial interest.

**7. Securities**

Any beneficial interest in securities of a body where-

- (a) that body (to your knowledge) has a place of business or land in the area of the Council; and
- (b) either-
  - (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
  - (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

-END-



### **Arrangements for dealing with Standards Allegations under the Localism Act 2011**

#### **1. Context**

Waverley Borough Council is committed to high standards of conduct by its councillors and co-opted members. These “Arrangements” set out how you may make a complaint that an elected or co-opted member of Waverley Borough Council (“the Council”) has failed to comply with Waverley Borough Council’s Code of Conduct and sets out how the Council will deal with allegations of a failure to comply with its Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of either authority, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated and whose views can be sought by the authority at any other stage, or by a member against whom an allegation as been made.

#### **2. The Code of Conduct**

Waverley Borough Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and is available on Waverley Borough Council’s website at [www.waverley.gov.uk](http://www.waverley.gov.uk) and on request from Reception at the Council Offices.

The Codes of Conduct of Town and Parish Councils are available for inspection on either Waverley Borough Council’s website or the relevant Town or Parish website (if the Parish Council has one) and may also be viewed by arrangement with the Town or Parish Clerk.

#### **3. Making a complaint**

If you wish to make a complaint, please write or email to:

The Monitoring Officer  
Waverley Borough Council

Council Offices  
The Burys  
Godalming  
Surrey  
GU7 1HR

robin.pellow@waverley.gov.uk

The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for dealing with complaints about member misconduct.

Please provide us with your name and a contact address or email address so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please say and we will not disclose your name and address to the member against whom you make the complaint without your prior consent. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it and will keep you informed of the progress of your complaint.

#### **4. Will your complaint be investigated?**

The Monitoring Officer will review every complaint received and apply the Council's criteria for assessing if an investigation is appropriate and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. The Monitoring Officer will inform the subject member or co-opted member of receipt of the allegation and its details and of their right to consult the Monitoring Officer and Independent Person. This decision will normally be taken within 14 days of receiving your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you, the member and the Independent Person of his/her decision in writing and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information and may request information from the member against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. At this stage, any media enquiries will be advised that a review of a complaint is in process and that it would not be appropriate to comment.

## **5. How is the investigation conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer who may be an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint and an explanation of the arrangements for the investigation and ask the member to provide his/her explanation of events and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member or delay notifying the member until the investigation has progressed sufficiently.

Members of the Standards Panel cannot represent other Members during investigations or at hearings, and Members should not contact Panel Members about any complaints.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration. The report will include details of the allegation, the evidence considered and the investigation's findings.

Having received and taken account of any comments that you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer which will include his/her findings as to whether there has been a breach of the Code of Conduct.

The draft and final reports of the Investigations Officer are confidential and should not be disclosed by the subject Member or their representative to any other person. Any breach of this confidentiality may be treated as a breach of the Code of Conduct.

## **6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**



The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned and to the Parish Council, where your complaint relates to a Parish Councillor, notifying you that he/she is satisfied that no further action is required and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report. The Monitoring Officer will ask the Independent Person to comment on the investigation report.

**7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

**7.1 Local Resolution**

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Panel Lead Member.

**7.2 Local Hearing**

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel of three Members drawn from the Group appointed by the Council, which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member. In the case of a complaint involving a Town or Parish Member, as well as the three Members, there will be a Town or Parish Councillor attending as a non-voting Member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the

Code of Conduct. For this purpose, the Investigating Officer may ask you, as the complainant, to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Hearings Panel, with the benefit of any prior advice in writing from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct and so dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations in writing to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

All parties should work together to complete the process within a reasonable timescale.

## **8. What action can the Hearings Panel take where it finds that a member has failed to comply with the Code of Conduct?**

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual Waverley members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may:

- 8.1 publish its findings in respect of the member's conduct;
- 8.2 report its findings to Council or to the Parish Council for information;
- 8.3 recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 recommend to the Leader of the Council that the member be removed from the Executive, or removed from particular Portfolio responsibilities;
- 8.5 instruct the Monitoring Officer to, arrange training for the member;
- 8.6 remove, the Member from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
- 8.7 withdraw, facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 exclude, the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' allowances or special responsibility allowances. In the case of Town or Parish complaints, the conclusion will be referred to that Town or Parish Council for such action they consider appropriate.

## **9. What happens at the end of the hearing?**

At the end of the hearing, the Chairman will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel and send a copy to you, to the member and the Independent Person and make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council. The decision will also be placed on the Waverley Borough Council website, unless no breach is found and the member requests it should not be publicised.

## **10. Who are the Hearings Panel?**

The Hearings Panel is drawn from the members appointed by the Council. The Independent Person's views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she:

- 11.1 is, or has been within the past five years, a member, co-opted member or officer of the Council; or
- 11.2 is, or has been within the past five years, a member, co-opted member or officer of a parish council of which the authority is the principal authority; or
- 11.3 is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means:
  - 11.3.1 spouse or civil partner;
  - 11.3.2 living with the other person as husband and wife or as if they were civil partners;

- 11.3.3 grandparent of the other person;
- 11.3.4 a lineal descendent of a grandparent of the other person;
- 11.3.5 a parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
- 11.3.6 a spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
- 11.3.7 living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

## **12. Review of these arrangements**

The Council may by resolution agree to amend these arrangements and has delegated to the Chair of the Hearings Panel the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter. The Council will review the arrangements after not more than six months and identify any improvements to the processes and ensure that they are helping the Council maintain high standards of conduct.

## **13. Appeals**

- (a) There is no right of appeal for you as complainant against a decision of the Monitoring Officer or of the Hearings Panel.
- (b) If the Member or co-opted member wishes to appeal against the decision of the Hearings Panel, the Member will have a right to have the decision reviewed by another three members of the Standards Panel who have not been involved. This will either involve a full rehearing of the case or be dealt with by way of written representation from the member.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

# ANNEXE 3

## Standards Review Comments

Cllr Robert Knowles	I am not sure if the £25 is set by us or in the regs? (for declaring hospitality) – This is very low now, a couple of sandwiches and a glass of wine at an event a member really does not want to go to soon gets over £25 – perhaps it should be increased
Cllr David Munro	<p>I have not been involved in drawing up Waverley's code but was at the heart of doing so for Surrey County Council. As the report says, the two codes are broadly similar.</p> <p>Unless there is evidence to the contrary which I haven't heard about, I don't believe that there have been any actual cases which have highlighted flaws in the code. I don't think therefore that a full review is worthwhile at this stage: wait until a 'real' case has passed through all stages and then use that as a benchmark on what went right and what went wrong.</p> <p>Just one small point though: the hospitality threshold of £25 above which it has to be declared is too low. Surrey has a threshold of £100 which is better.</p>
Cllr Diane James	<p>I participated in a Standards Panel as a member of the Standards Committee. This experience identified for me that the WBC code of conduct is somewhat 'unfit for purpose'.</p> <p>There are a number of specific points that I shall make borne out of my experience:</p> <ol style="list-style-type: none"><li>1. panel members should not be contacted via representatives involved in a case.</li><li>2. the panel chair should consult panel members throughout.</li><li>3. adequate legal resource should be provided to panel members</li><li>4. legal guidance should not be provided on a 'just in time' basis</li><li>5. clarity as to why a panel needs to go into Exempt</li><li>6. greater/improved clarity as to the remits of the SCC and WBC codes, overlap etc with a hierarchy of responsibility established</li><li>7. greater support for the officer conducting the reports including training etc</li><li>8. strict timelines as to how long cases can last, time between hearings etc</li><li>9. WBC code should use examples to illustrate when breaches might/could have occurred - currently it is a lot of verbiage with little interpretation or guidance to help councillors</li><li>10. there needs to be some mechanism to prevent any use of the code being used for personal vendetta purposes</li></ol> <p>Think that will do, as I am sure you will have guessed I have very little faith in the Code as it stands, how it has been interpreted and used to date.</p>

## ANNEXE 4

### Article 9 – The Standards Panel

#### 9.01 Standards Panel

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

#### 9.02 Composition

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

- Nine councillors [other than the leader, and with a maximum of one member from the Executive];
- 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.

(c) **Town and Parish members.** One or more Town or Parish member must be present when matters relating to Town or Parish Councils or their members are being considered, except where they have an interest; and

(d) **Chairing the Panel.** The Chairman of the Panel will be appointed by Council.

#### 9.03 Role and Function

The Standards Panel 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 councillors and Independent Persons on matters relating to the Members' Code of Conduct;
- (g) Where the Monitoring Officer decides a hearing is necessary, hearing complaints received concerning the conduct of Waverley Borough members or Town and Parish Councillors and the determination as appropriate

- (h) the exercise of (a) to (g) above in relation to the town and parish councils in Waverley Borough and the members of those town and parish councils;
- (k) in the event of a dispute arising from a breach of the Council's Local Protocols, the Standards Panel should use the same processes as for breaches of the Code.;
- (l) providing an advisory role to the Constitution SIG in matters pertaining to the Constitution.

#### **9.04 Standards Panels - Appointment of Standards Panels**

The Monitoring Officer, in consultation with the Chairman of the Standards Panel, will appoint Panels of no less than 3 members for the process of hearing and determining complaints received regarding member conduct that may have breached the Waverley Code of Conduct, where these have been referred by the Monitoring Officer. In addition, for town and parish councillor complaints a town/parish councillor representative must also be included on a Panel. The Panels will have the power to determine complaints.

# **Councillors' Planning Code of Good Practice**

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## **INTRODUCTION**

**The aim of this code of good practice;** Is to help Members maintain high standards of conduct and ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way.

**The key purpose of Planning:** to control development in the public interest, and in accordance with national and local policies unless material considerations indicate otherwise.

**Your role as a Member of the Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Members at all times when involving themselves in the planning process. This includes, where applicable, when they attend as an observer, participant or are part of decision-making meetings of the Council in exercising the functions of the Local Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications and pre-application discussions.

If you have any doubts about the application of this Planning Code of Good Practice to your own circumstances you should preferably seek advice early from the Monitoring Officer well before any meeting takes place.

### **1. Relationship to the Waverley Members' Code of Conduct**

**Do** apply the rules in Waverley Members' Code of Conduct first when involved with planning issues and discussions. Failure to comply could put you at risk of a complaint being made to the Monitoring Officer.

**Do** then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Waverley Members' Code of Conduct in relation to planning. If you do not abide by this Code of Good Practice, you may put the Council at risk of a challenge to its decisions.

### **2. Development Proposals and Interests under the Waverley Code of Conduct for Members**

Your interest could relate to a proposal's effect, either adverse or beneficial, on you, your employer's or a friend's or relative's property.

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. *There are declaration of interest forms available to complete and submit electronically in advance of a meeting or by emailing [committees@waverley.gov.uk](mailto:committees@waverley.gov.uk).*

If you only become aware of an interest during the meeting, you must declare it as soon as you can.

**Do** then act accordingly. **Where your interest is a Disclosable Pecuniary Interest:-**

**Don't** try to represent your Ward views or call-in an application. Get another ward councillor or member of the Council, if appropriate, to do so instead. Under the new Code you can no longer speak if it is a public speaking item and you have a Disclosable Pecuniary Interest.

**Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a Disclosable Pecuniary interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.

**Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary interest to an appropriate officer, in person or in writing, the Waverley Code of Conduct for Members places greater limitations on you in representing that proposal than would apply to a normal member of the public. In particular, you should have regard to paragraph 4(1) of the Code.

**Do** notify the **Monitoring Officer** in writing of your interest and note that: in the case of a personal application,

- notification should be made no later than submission of the application;
- any proposed approval will always be reported to the appropriate decision-making Committee for determination and not dealt with by officers under delegated powers; and
- it is advisable that you employ an agent to act on your behalf on the proposal when dealing with officers

Do ensure that when contacting an officer about your own proposals, or those of a person so closely connected to you could be seen as influencing your judgement, you must make clear that you are contacting the officer purely in a private capacity and not in your role as a councillor (e.g. Mr Brown not Councillor Brown)

**Do** if any doubts about proximity of your own property to an application site, contact the Monitoring Officer for clarification.

### **3. Fettering Discretion in the Planning Process.**

Planning matters must be determined on their own individual merits, against the formal planning policy background. These considerations will be set out in the officers' reports, supplemented at the meeting. Accordingly, Members' should not decide how he/she will vote on a particular matter before it is considered at the meeting, but base their decision on the officer reports, additional information presented to the meeting and the debate.

**Predetermination:** The Localism Act provision on pre-determination gives greater leeway for a decision-maker to directly, or indirectly, indicate a view on a matter prior to a meeting. The decision-maker must still be seen to have an open mind, but the legislation does give greater scope for councillors to represent the views of residents and vote on certain issues.

**Don't** fetter your discretion and, therefore, your ability to participate in planning decision-making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest of lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the meeting of the planning committee and before hearing the officer's presentation, and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision could still put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of **bias** or **pre-determination** or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

**Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. This would particularly apply to Portfolio Holders in relation to schemes within their Portfolio area. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

**Do** also be aware that, whilst the Waverley Code of Conduct for Members provides for a presumption that you may regard yourself as not having a Disclosable Pecuniary interest in matters which relate to the organisations mentioned below, you must exercise your discretion in deciding whether or not to participate in each case and where -

- *you have been significantly involved in the preparation, submission or advocacy of a planning proposal on behalf of another local or public authority of which you are a member; or a body to which you have been appointed or nominated by the Council as its representative;*

*or*

- *you are a trustee or company director of the body submitting the proposal and were appointed by the Council*

In such cases you should always disclose a Disclosable Pecuniary Interest as well as Non-Pecuniary Interest and withdraw from the meeting at the appropriate time.

**Do** consider yourself able to take part in the debate on a proposal when acting on the part of a consultee body (where you are also a member of the Town/Parish Council, for example, or both a District/Borough and County Councillor), provided that:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- your views are expressed on the limited information before you only;
- you reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning Committee and you hear all the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Planning Committee; and
- you disclose the Non-Pecuniary Interest regarding your membership or role when the Planning Committee comes to consider the proposals.

**Don't** speak and vote on a proposal where you appear to have fettered your discretion. You should withdraw.

**Do** leave the room if there is a risk of an appearance of bias by a member of the public. You can not stay in the room and just not vote.

**Do** explain that you do not intend to speak or vote and will be leaving the room because if you do participate, you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere. This will be recorded in the minutes.

#### 4. **Call-in Process**

**Do** ensure that you comply with the rules for asking for an item to be presented to committee – within three weeks following the notification of the Waverley weekly list of planning applications, as a ward councillor (for the ward including all or part of the planning application site) you can request by email to the Head of Planning that an item be referred to a Planning Committee on relevant planning grounds. **Don't** ask for an item to be referred if you have a Disclosable Pecuniary Interest or there is a risk of you being seen as biased.

With Town and Parish Council support in writing, you can also, as a ward councillor, request that an application be placed on the agenda for the next Area Planning Committee.

#### 5. **Contact with Applicants, Developers and Objectors and the Pre-Application process.**

**Do** refer those who approach you for planning, procedural or technical advice to the officers in the Planning Service.

**Don't** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. If a meeting does take place, such as a planning presentation or exhibition, those present at the meeting should be advised from the

start that the discussions will not bind you or the Council to any particular course of action. The meeting should be properly recorded on the application file.

**Do otherwise:**

ensure that you do not involve yourself in lobbying  
and

report to the Head of Planning any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

## **6. Lobbying of Councillors**

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, doing so may lead to the perception that you are unable to act impartially and therefore it may affect your ability to participate in the Committee's decision making. To express an intention to vote one way or another or to express too firm a point of view on a particular matter amounts to the same thing and could lead to legal challenge.

**Do** remember that your overriding duty is to the whole community of Waverley and not just to the people in your Ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

**Do** remember the need for consistency in determining planning applications made for any location in the Borough

**Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared to the Monitoring Officer on the electronic form as soon as possible and remember to register the gift or hospitality where the gift value is over £50 and the hospitality is over £100.

**Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality). The Monitoring Officer will in turn advise the appropriate officers to follow up the matter.

**Do** copy or pass on any lobbying correspondence you receive to the Head of Planning at the earliest opportunity so that it may be placed on file for consideration by other members or the public.

**Do** promptly refer to the Head of Planning any offers made to you of planning gain or constraint of development through a proposed s.106 Planning Obligation or otherwise. Do not attempt any informal negotiation or discussion

**Do** note that, unless you have a Disclosable Pecuniary interest, you will not normally be considered to have fettered your discretion or breached this Planning Code of Good Practice through

- listening to or receiving viewpoints from residents or other interested parties (though all parties should be given equal opportunities for access);
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion as a Ward Member, provided you explain your actions and make it clear that having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate at the decision-making meeting.
- Do** remember that anyone who is not present from the start of the consideration of a planning application, or leaves during one being considered, **must not** take part in debate or vote on the application as this could lead to a legal challenge that a member is closed to the merits of the arguments for or against the application and has made a decision without taking all of the considerations into account.

## 7. Lobbying Of Councillors

**Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and placed yourself in a position where you have a perceived bias and have to withdraw. Involvement in such activity before you were elected as a member could also be perceived by the public as a relevant consideration and you need to consider such a possibility before taking part in a planning determination.

**Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, **but** disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal. Simple membership of such organisations is less likely to give rise to a non-pecuniary interest than if you were actively involved in drafting any representation.

**Don't** excessively lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

**Don't** lobby or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political group meetings should never dictate how Members should vote on a planning issue.

## 8. Site Visits

**Do** try to request a site visit prior to the Committee taking place in accordance with the site visit protocol.

**Do** try to attend site visits organised by the Council where possible.

**Don't** request a site visit unless you feel it is strictly necessary because:

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- there are significant policy or precedent implications and specific site factors need to be carefully addressed.

**Do** ensure that any information that you gained from the site visit is reported back to the Committee, so that all Members have the same information.

**Do** ensure that you treat the site visit only as an opportunity to seek information and to familiarise yourself with the site.

**Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

**Don't** hear representations from any other party but factual information can be sought for clarification.

**Do**, where you are approached by the applicant or a third party, advise them that they should make representations in writing to the Council and direct them to or inform the officer present.

**Don't** express opinions or views to anyone.

**Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias. This does not mean that you can not simply observe the property or site from the roadside, but should you do so, don't be drawn into any discussion about the proposal with any party.

**Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) as this may give the appearance of bias, and undermines the transparency of the decision-making process.

## 9. Officers

**Don't** put pressure on officers to put forward particular recommendations. (This does not prevent you from asking questions or submitting views to the Head of Planning which may or may not be incorporated into any committee report.) This could be regarded as a Breach of the Code.

**Do** involve yourself in pre-application discussions with the case officer but recognise that officers are part of a management structure and Members should only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level - in accordance with the Officer/Member Protocol.

**Do** recognise and respect the requirement that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## **10. Pre-Application discussions**

Councillors have an important role to play in pre-application discussions. The Localism Act has given Councillors much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that Councillors might have fettered their discretion, such discussions should take place within clear published guidelines.

**Do** ensure Officers are present with you in pre-application meetings. If you do speak to applicants do ensure clarity that the discussions will not bind the Council to making a particular decision and you should avoid giving separate advice on the development plan or material considerations without officers in attendance. In any case, a written note should be made of all meetings.

**Do** note that the Council has other mechanisms to involve you in pre-application discussions such as developer presentations to Committees (e.g. technical briefings and Development Control Consultative Forums) which have the advantage of being held in public for transparency.

## **11. Decision-Making**

**Do** come to meetings and participate only if you are familiar with the written report on each item.

**Do** come to meetings with an open mind and demonstrate that you are open-minded.

**Do** comply with Section 38(6) of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan "unless material considerations indicate otherwise".

**Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. Remember that planning law requires determination to be based on planning consideration and not political or Council priorities. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request the further information you seek. If necessary, defer or refuse.



**Don't** vote or take part in the meeting's discussions on an item unless you have been present to hear the entire debate, including the officer's introduction to the matter.

**Do** have recorded the reasons for a proposal that the Planning Committee defers any proposal for a site visit.

**Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that the resulting decision may have to be justified by evidence at a planning appeal in the event of any challenge.

## **12. Training**

**Don't** participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

**Do** attend any training and other specialised sessions provided, to ensure that members' judgements have been based on proper planning considerations. These will be designed to extend your knowledge of planning law, regulations, procedures, Code of Good Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively. This will be provided as part of the Induction process together with refresher courses.

# **WAVERLEY BOROUGH COUNCIL** **MONITORING OFFICER PROTOCOL**

## **1. Introduction**

- 1.1 Section 5 of the Local Government and Housing Act 1989 (“the 1989 Act”) requires local authorities to appoint a Monitoring Officer. This Protocol provides some general information on the statutory role the Monitoring Officer undertakes and how the functions will be discharged within Waverley Borough Council (“the Council”).
- 1.2 The Monitoring Officer role is currently undertaken by the Head of Corporate Governance who undertakes to discharge the post’s statutory responsibilities in a manner that enhances the overall reputation of the Council and promotes and maintains high standards of conduct. In doing so, the Monitoring Officer will also safeguard, so far as is possible, Members and Officers, whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.
- 1.3 A summary list of the Monitoring Officer’s functions appear in Appendix 1 to this Protocol. The Monitoring Officer’s ability to discharge these responsibilities will depend, to a large extent, on Members and Officers:
  - a) Complying with the law (including any relevant Codes of Conduct),
  - b) Complying with any statutory guidance and other guidance and advice issued from time to time by the Standards Committee and the Monitoring Officer,
  - c) Not doing anything that would bring the Council, their offices or professions into disrepute, and
  - d) Making lawful, proportionate and reasonable decisions.
- 1.4 In general terms the Monitoring Officer’s ability to discharge duties also depends on good working relations with Members and Officer colleagues, particularly the Council’s Corporate Management Team and Heads of Service, and also access to information and debate during the decision-making process.
- 1.5 The Monitoring Officer has appointed the Democratic Services Manager as the Deputy Monitoring Officer who will perform the functions of the Monitoring Officer when the Monitoring Officer is unable to act. The Monitoring Officer is assisted from time-to-time by staff in Democratic Services and Legal Services and any other appropriate officers, but the responsibility for discharging the functions of Monitoring Officer is a personal one.

## **2. Working Arrangements/Understandings**

- 2.1 Good working relations with Members and Officers will help the Monitoring Officer discharge his statutory responsibilities and ensure the Council’s interests are safeguarded. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the

Council) will assist in fulfilling those responsibilities. Members and Officers must, therefore, work with the Monitoring Officer (and staff) to discharge the Council's statutory and discretionary responsibilities.

2.2 The following arrangements and understandings between the Monitoring Officer, Members and Corporate Management Team are designed to help ensure the effective discharge of the Council's statutory powers and duties.

- a) **Lawfulness etc** – Members and Chief Officers must alert the Monitoring Officer to all emerging issues that may become a concern to the Council including, in particular, issues around legal powers to do something or not (i.e. lawfulness), ethical standards, probity, procedural or other constitutional matters and give advance notice to the Monitoring Officer of meetings (whether formal or informal) where these issues are likely to arise.
- b) **Attendance at and access to papers for meetings** – The Monitoring Officer will have the right to attend and be heard at any meeting of the Council, the Executive and the Corporate Management Team before any binding decision is taken (including a decision not to take action) and have access in advance to the agendas, minutes, reports and related papers for such meetings.
- c) **Liaison with the Statutory Officers** – The Monitoring Officer will meet with the Head of Paid Service (the Chief Executive) and the S.151 Officer (the Deputy Chief Executive and Strategic Director of Resources) to consider and recommend action in connection with corporate governance issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise.
- d) **The Council's Constitution** – The Monitoring Officer will monitor and review the operation of the Constitution in consultation with the Head of Paid Service (the Chief Executive) and the S.151 Officer (the Deputy Chief Executive and Strategic Director of Resources) and the Head of Democratic and Legal Services as appropriate to ensure that the aims and principles of the Constitution are given full effect.
- e) **General Advice** – The Monitoring Officer will give general advice on the interpretation and application of the Constitution to Members and Officers alike (e.g. responsibility for functions, procedural rules, codes and protocols, standing orders, contract procedure rules etc.).
- f) **Registers** – The Monitoring Officer will compile and maintain the Council's Registers of Members' Interests and Gifts and Hospitality.
- g) **Training** – The Monitoring Officer will be responsible for preparing and implementing a training programme for Members on the Council's ethical framework subject to the approval of the Standards Panel.

- h) **External Relations** – The Monitoring Officer will develop good and effective working relations with Town and Parish Councils and the Council’s auditors and the Local Government Ombudsman as necessary (including the giving and receiving of relevant information, whether confidential or otherwise).
- i) **Internal Relations** – The Monitoring Officer will be afforded a special relationship of mutual trust and respect with the Leader, Deputy Leader, Mayor, Deputy Mayor, and the chairmen of the Standards Panel, Planning, Audit, Licensing and Overview and Scrutiny Committees with a view to ensuring the effective and efficient discharge of the Council’s functions.
- j) **Complaints/Investigations** – The Monitoring Officer will
- Receive and act on complaints made in respect of member conduct, including members of the town and parish councils within Waverley’s area.
  - Conduct investigations into matters as set out in the arrangements for investigating complaints adopted by the Council and if appropriate make reports or recommendations in respect of them to a Standards Panel.
  - Be expected to make enquiries into allegations of misconduct in the absence of a written complaint being received.
  - Have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of his functions when carrying out any investigation.
- k) **Appointment of Deputy** – The Monitoring Officer will appoint a Deputy and keep them briefed on any relevant issues that he may be required to deal with where he is unable to act.
- l) **Resources** – The Monitoring Officer will report to the Council from time to time on the staff, accommodation and resources required to discharge his functions. Where the Monitoring Officer requires specialist advice on any matter concerning his statutory responsibilities he will be able to seek advice from the Borough Solicitor or Counsel’s Opinion. The Council will also provide such support from its own resources, including but not limited to legal and procedural advice.

2.3 To ensure the effective and efficient discharge of the above working arrangements and understandings, Members, the Chief Executive, Strategic Directors and Heads of Service will report any breach of statutory duty or material breach of Council policy or procedures and other vires or constitutional concerns to the Monitoring Officer as soon as practicable.

2.4 The Chief Executive, Deputy Chief Executive or Strategic Director and Heads of Service agree to inform and explain the terms of this Protocol to their Service

Managers so that they understand the issues highlighted in paragraph 2.1 and 2.2 above and report concerns accordingly.

- 2.5 The S.151 Officer will ensure that adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer's role.

### **3. Breach of the Local Code of Conduct for Members and this Protocol**

- 3.1 Complaints against any breach of the Council's Local Code of Conduct for Members must be referred to the Monitoring Officer. He will investigate the complaint. Complaints against any breach of this Protocol by a Member may be referred to a Standards Panel and/or to the Leader of the relevant political party group.
- 3.2 Complaints against any breach of this protocol by an Officer may be referred to the relevant strategic director and/or the Chief Executive under the arrangements adopted by the Council.

## SUMMARY OF MONITORING OFFICER FUNCTIONS

Description		<u>Key Source</u>
1.	Appointment of Deputy	Section 5 (7) Local Government and Housing Act 1989
2.	Report on resources allocated to the Monitoring Officer	Section 5 Local Government and Housing Act 1989
3.	Establish and maintain Registers of Members' Interests and Gifts and Hospitality	Section 81 Local Government Act 2000 and Local Code of Conduct
4.	Advice to Members and Officers on the interpretation and application of the Constitution	Article 12 of the Council's Constitution
5.	Receive copies of whistleblowing allegations of misconduct	Anti Fraud and Corruption Strategy, Council Constitution
6.	Key role in promoting and maintaining high standards of conduct through support to the Standards Committee	Article 12 of the Council's Constitution and the Localism Act 2011 provision on Standards.
7.	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.	Article 12 of the Council's Constitution and the Localism Act.
8.	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
9.	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
10.	Investigate misconduct in compliance with the Councils adopted arrangements	Localism Act 2011

## **Appendix to Monitoring Officer Protocol**

### **Waverley Borough Council**

#### **What is a Monitoring Officer?**

Under the provisions of the Local Government and Housing Act 1989, all councils have a duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of local authority decision-making. He is responsible for advising the Council on the legality of its decisions and providing guidance to the members and officers on the powers and duties of the Council.

#### **Who is the Monitoring Officer?**

The current Monitoring Officer is Robin Pellow, Head of Corporate Governance. Robin has more than 37 years of Local Government experience. His phone number is 01483 523222 and email is [robin.pellow@waverley.gov.uk](mailto:robin.pellow@waverley.gov.uk) If Robin is unavailable, please contact the Deputy Monitoring Officer, Emma McQuillan, on 01483 523351 or email to [emma.mcquillan@waverley.gov.uk](mailto:emma.mcquillan@waverley.gov.uk) .

#### **What is the role of the Monitoring Officer in complaints?**

As part of Waverley's complaints process, the Monitoring Officer will receive all complaints that are made about member (councillor) conduct. This includes complaints regarding councillors who are members of the various town and parish councils within Waverley Borough. He may conduct investigations and refer these complaints to the Council's Standards Panel for consideration.

#### **What if I want to complain about a Councillor?**

As stated above, under the Council's complaints procedure the Monitoring Officer will investigate any complaints about Members. There is a Code of Conduct for Members and this is part of the Council's Constitution (which can be seen on the Council's website). If you think that a Member has broken the Code of Conduct then you have to make a formal complaint to the Monitoring Officer. The Council has a special complaints leaflet which is available at its offices, and the offices of Town and Parish Councils, or one can be sent to you. If you want to take any advice about how to complain about a Member then please speak to the Monitoring Officer who will be able to guide you through the process.

#### **What else can the Monitoring Officer do?**

1. Report on contraventions or likely contraventions of any enactment or rule of law.  
Section 5 Local Government and Housing Act 1989.
2. Report on any maladministration or injustice where Ombudsman has carried out an investigation.  
Section 5 Local Government and Housing Act 1989.

3. Appointment of Deputy.  
Section 5 Local Government and Housing Act 1989.
4. Report on resources.  
Section 5 Local Government and Housing Act 1989.
5. Receive copies of whistleblowing and allegations of misconduct  
Code of Conduct for Members and Co-opted members of Waverley BC
8. Establish and maintain registers of member's interests and gifts and hospitality.  
Localism Act 2011 and Code of Conduct for Members and Co-opted Members of WBC.
9. Advice to members on interpretation of Code of Conduct for Members and regulations when made
10. Key role in promoting and maintaining high standards of conduct. Localism act 2011.
11. Compensation for maladministration.  
Section 92 Local Government Act 2000.
12. Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members.  
DETR guidance

The Council's Monitoring Officer is  
Robin Pellow  
Head of Corporate Governance  
Council Offices  
The Burys  
Godalming  
Surrey  
GU7 1HR

Deputy Monitoring Officer is  
Emma McQuillan  
Democratic Services Manager  
Council Offices  
The Burys  
Godalming  
Surrey  
GU7 1HR



## **WAVERLEY BOROUGH COUNCIL** **OFFICER/MEMBER PROTOCOL**

### **Developing the way that Waverley officers and members work together for the good of the local community**

This document is intended to provide guidance and direction in the way that members and officers work together in carrying out the Council's business.

It seeks to build on the clear benefits of ensuring that, from their different roles, members and officers develop effective and efficient internal working relationships that best serve the collective goal of improving the quality of life in the local community.

Whilst it gives guidance and direction, the document, should not be seen as being prescriptive. Rather it should be regarded as a tool that helps ensure that the Codes of conduct and policies that prescribe activities and behaviours are not compromised or breached.

Those relevant codes and policies are:

- the Waverley Member Code of Conduct
- the Waverley Borough Council Constitution
- the Officer Code of Conduct including the Addendum to the Code on the Use of IT Facilities;
- the Council's 'Dignity and Respect at Work' policy and procedures for dealing with Bullying and Harassment at work
- the Council's 'Disciplinary and Grievance Procedures' including the special arrangements that apply to the Chief Executive, the Section 151 Officer (Director of Finance) and the Monitoring Officer
- the Council's 'Public Interest Disclosure (Whistleblowing)' policy and procedures
- the Council's Equal Opportunities in Employment policy statement

A copy of the Member Code of Conduct and the Constitution is made available to all Members. Copies of all the other documents are issued to employees of the Council. Members who wish to see copies of those documents should ask the Head of Organisational Development.

This guidance will not cover every specific eventuality but the broad principles included in the document set standards for acceptable behaviour that should fit every eventuality.

For the avoidance of doubt, where there is a conflict between the guidance in these Protocols and any of the Codes/Policies defined above, compliance with the latter is obligatory. In cases of doubt, the Monitoring Officer will refer to the Waverley Code of Conduct for Members and give advice in accordance with the standards prescribed.

## **OFFICER/MEMBER PROTOCOLS**

### **1. General Principles Underlying Member/Officer Relations**

Waverley has a long tradition of constructive relationships between Councillors and Officers. These have developed into a strong partnership based on mutual respect and understanding of each others roles.

Both members and officers should aspire to conduct their relations, at all times, on a professional basis.

Relations must be based on mutual trust, respect and courtesy and neither members nor officers should seek to take unfair advantage of their position.

Close personal relationships between members and officers can damage professional relationships and can prove embarrassing to other members and officers. They could also give rise to suspicions and/or the appearance of improper conduct or behaviour. Close personal relationships should, therefore, be avoided.

Officers must, at all times, display political impartiality and members must, at all times, accept the political impartiality of officers.

Members and officers must have mutual respect for confidentiality where that is important to the relationship and where that does not compromise the duty of officers to serve the public (see Section 3). Officers must make that clear before entering into any confidential discussions with members.

Members should understand that officers have a contract of employment with the Council as a corporate body and not, as such, with individual members of the Council or the Executive.

### **2. Role of Members**

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, members roles are 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 Waverley'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 their 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.

(as set out in the Constitution).

### **3. Role of Officers**

- Advising the Council on policy matters and implementing Council decisions
- Taking day-to-day managerial and operational decisions
- Providing support/advice to members on matters of Council business
- Acting within their sphere of responsibility/accountability (see the Scheme of Delegation)
- Ensuring that the Council functions within the legislative framework
- Above all else, officers of the Council have a duty to serve the public in good faith and without fear or favour of anyone.

### **4. Relationship between the Leader of the Council and Officers**

When functioning as the Leader of the Council, the Leader will work in close cooperation with the Chief Executive, Deputy Chief Executive, Strategic Director and Heads of Service in matters related to the corporate direction and functioning of the Council.

In this role, the Leader would not normally deal direct with other members of staff except when dealing with any other specific portfolio responsibilities that the Leader of the Council may hold.

This also applies to the Deputy Leader of the Council when acting in place of the Leader.

### **5. Relationships between the Leader and Members of the Executive and officers**

The Leader works through Portfolio Holders who work with the Chief Executive, Deputy Chief Executive, Strategic Director and Heads of Service in respect of matters within the portfolio holder's brief.

### **6. Relationship between Chief Executive and Members**

Any member may make an appointment to see the Chief Executive.

### **7. Relationship between Executive, Special Interest Groups (SIGs) and officers**

Officers, as necessary, and as determined by the Chief Executive, Deputy Chief Executive and Strategic Director and/or Heads of Service, advise SIGs who in

turn advise the Executive, through the relevant Portfolio Holder, on matters of policy that have required the establishment of a SIG.

**8. Relationship between Portfolio Holders and Officers**

Portfolio Holders work closely with and discuss and consult, as they see necessary, with the Chief Executive, the Deputy Chief Executive and Strategic Director and/or Heads of Service.

**9. Relationships between Chairmen and Vice-Chairmen of Overview and Scrutiny Committees and officers**

All reports to Overview and Scrutiny Committees will be submitted to the Corporate Management Team prior to the Committee.

Chairmen and Vice-Chairmen of Overview and Scrutiny Committees may seek advice from the Chief Executive, Deputy Chief Executive, Strategic Director (and/or Heads of Service) and any designated support officers.

**10. Relationship between Chairman and Members of other Committees and Officers**

Chairmen of Regulatory Committees may seek advice from the Chief Executive and/or Directors (and/or Heads of Service).

**11. Officer relationships with party groups (Note: Local Government and Housing Act 1989 introduced politically restricted appointments)**

Officers will do work on behalf of all political party groups fairly and consistently.

It is critical that officers respect confidentiality between political party groups.

**12. Officer relationships with other individuals who are members of Council bodies**

This protocol will apply also to lay or co-opted Members of Committees, SIGs, Working Parties etc.

**13. Members in their ward role and officers**

Members may seek advice from relevant officer(s) on ward matters and, if they wish to do so, may first inform the relevant Head of Service.

Those relevant officer(s) will advise the Chief Executive or their Head of Service as appropriate.

Officers should keep ward Councillors informed of relevant matters affecting their ward.

**14. Publicity, Press Releases and other contact with the Media**

NOTE: The specific rules governing such activities of members are set out in Section 2 of the Local Government Act 1986 and the Code of Practice on Local Authority Publicity.

Contact with the media on issues related to Council business is handled through the Public Relations Manager who provides support and guidance and training as necessary to members and officers.

Press releases etc. from officers should not relate to the political views of any group of officers or members.

Officers, in communicating with the media, should restrict their comments to matters of fact and should avoid expressing personal opinions on Council policy or political decisions and/or views expressed by members.

No member or officer may be quoted in media/press releases without their specific consent.

For service specific media issues – these will be discussed with the relevant Portfolio Holder.

Wider ‘corporate’ media issues – these will be discussed with the Leader (or Deputy Leader in absence of the Leader) unless this cannot be achieved by the Press deadline. Where it is not possible, the Public Relations Manager will advise.

Members may issue their own media releases. However, they must not: -

- use Council resources for that purpose where the media issue is to publicise an individual Councillor or the views of a political party; and
- impute or ascribe particular views to officers or otherwise refer to officers without that being agreed with the Chief Executive, Deputy Chief Executive or Strategic Director in advance.

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.

## **15. Councillor access to documents and information**

Members are entitled to have such access to information as they reasonably need to carry out their role as members of the Council. However, Members cannot have access to personal information about residents or members of staff, such as council tax, rent or benefit records, unless they have written consent from the individual.

The legal right of members to have access to information is covered partly by common law but also by different pieces of legislation. Members requiring advice on such rights should contact the Monitoring Officer.

## **16. Officer attendance/participation at formal meetings of the Council**

### **Executive**

Meetings of the Executive will be attended by the Chief Executive, Deputy Chief Executive or Strategic Director and, as necessary, Heads of Service and specialist staff.

Portfolio Holders will normally present reports to the Executive.

The Leader of the Council and/or Portfolio Holders may call on officers in attendance to speak. Officers may ask to speak if factual information is being reported incorrectly, for a point of clarification or if relevant data could be overlooked.

### **Regulatory Committees**

The Chairman of the Committee will require officers, as designated by the relevant Head of Service, to present a report and recommendations on each matter.

### **Overview and Scrutiny Committees**

Meetings of Overview and Scrutiny Committees may be attended by the Chief Executive and relevant departmental Directors and/or Heads of Service as necessary.

The Chairman of the Committee will ask the relevant Director or Head of Service to present the report

### **Special Interest Groups**

These will be attended by the Chief Executive, Deputy Chief Executive or Strategic Director and relevant Heads of Service and other specialist officers as considered necessary by the Head of Service.

The meetings are informal and Members and officers in attendance may both contribute to the discussion as they see necessary.

## **17. Access to Officers by Members**

On any new specific service issue and to ensure consistency, it should only be necessary for members to contact either the Chief Executive, Deputy Chief Executive or Strategic Director or Heads of Service, or in the case of media issues the Public Relations Manager. If members are unsure of who to contact, they should contact Democratic Services.

These officers should recognise that members will have needs for information that are not always predictable and will try to respond quickly (see Section 18 below).

However, to help manage workloads and to help the smooth working of the Council's departments, the following guidelines should, so far as is practicable, be observed.

- An uninvolved/uncomplicated enquiry may be made by telephone.
- Otherwise, members should send their enquiry by e-mail
- If members do not have access to e-mail or if a personal visit is considered more appropriate, an appointment should be made with the relevant officer ideally giving a minimum of 24 hours' notice.
- Where there is a need for immediate action, ideally, the member should telephone the officer to ensure that a meeting on the same day is practicable.
- Portfolio Holders should arrange fixed times for their regular meetings with their departmental Directors and/or Heads of Service as appropriate, and should not make demands on time which could affect officers' ability to carry out their jobs.
- Both members and officers should aim to keep meetings short and focused.

#### **18. Officers Dealing with Member Enquiries: Response Times**

Heads of Service will support their staff in achieving the following broad performance targets in responding to Member's enquiries: -

- within 2 working days - straightforward enquiries
- within 5 working days - more complicated enquiries
- within 15 working days - enquiries involving research

#### **19. Officers Dealing with Member Correspondence**

Letters from the Council that create obligations or give instructions on behalf of the Council must always be sent out in the name of an officer.

Officers who are requested to prepare correspondence on behalf of members will work to the guidelines in Section 18.

#### **20. Effective Working Relationships Between Members and Officers**

This is best achieved by working together in partnership.

Members should:

- avoid putting officers under undue pressure to the extent that it could be regarded as harassment and/or bullying. Members should be particularly sensitive when dealing with less senior officers in the absence of the relevant senior officer.

- not require officers to do things that are not consistent with Council policy, not within normal budgetary controls and not part of the officer's normal duties.
- avoid criticising officers, particularly at meetings open to the public or in the media;
- avoid actions or words that may appear to others to be attaching blame to an officer(s) particularly when the officer(s) is not present
- avoid words or actions that may serve to undermine the professionalism and integrity of officers.

Officers should:-

- Treat members with courtesy and respect at all times;
- Not use undue influence over a member or put a member(s) under undue pressure
- Avoid words or actions that may undermine respect for members

## **21. Scheme of Delegation**

Members should not challenge, publicly, a decision made in good faith by an officer under the Scheme of Delegation, whether or not that decision requires consultation with nominated members.

Members who require information on why a particular decision has been made may ask the relevant officer to explain the basis on which the decision has been made including the use of any pre-prepared guidelines to help decision-making.

## **22. Dealing with Breaches of this Protocol**

### **By Members**

An officer who feels that they have been treated by a member in a way that is contrary to the principles and ideals set out in this document should follow the steps in the Council's Dignity and Respect at Work policy and procedures. The employee, under those procedures, may follow whatever initial approach they prefer. However, the matter must also be raised with the Chief Executive and the relevant Head of Service.

Members who are in breach of this protocol will be dealt with using, as appropriate, one or more of the approaches set out below:-

Leader of the relevant political group  
Monitoring Officer  
If necessary, by a meeting of the Standards Panel.



## **By Officers**

A Member who has a complaint that an employee has acted contrary to the principles and ideals set out in this document should raise the matter with the Chief Executive, Deputy Chief Executive or Strategic Director.

Officers who are in breach of this protocol will be dealt with under one or both of the following procedures:-

Dignity and Respect at Work policy and procedures  
Disciplinary Procedures.

## **23. Conclusions**

Members and Officers, in following the guidelines in this Protocol, help maintain that the constructive officer/member relations that have existed in Waverley for years.

Having a written Protocol will enable members and officers to build on and improve and improve the Member-Officer partnership by identifying practices and approaches that work best to ensure effective working relationships. The Protocol will be kept under review and amended to reflect identified best practice.

## WAVERLEY BOROUGH COUNCIL

### EXECUTIVE – 2 JULY 2013

#### Observations from the meeting of the Corporate Overview and Scrutiny Committee held on 24 June 2013

##### Executive Agenda Item No.

#### 10. FINANCIAL SUPPORT FOR COMMUNITY INTEREST COMPANIES

The Committee received the report on an application for rate relief from a registered Community Interest company (CIC). The Committee considered the two options for providing financial support to CICs and concluded that, provided they met the scheme's criteria, these organisations should apply for grant funding under Waverley's Community Partnerships fund during the course of the year and then through the usual application process for the next year. The Committee preferred that option as it was not a direct cost on the Council and was a member-driven process.

Corporate O&S Committee endorsed the recommendation and RESOLVED to pass on the above observations to the Executive.

#### 17. WAVERLEY'S HOMELESSNESS STRATEGY 2013-2018

The Committee received the report on the progress of Waverley and its partners in tackling homelessness in the borough. The Committee noted that Waverley currently had the lowest number of homeless households in temporary accommodation in the South East and that this was mostly due to the Council and its partners adopting a proactive, preventative approach.

The Committee were encouraged to see the progress made over the last 10 years and congratulated Officers and all organisations involved for their work in bringing about the decline of homelessness in Waverley.

Corporate O&S Committee RESOLVED to recommend Waverley's Homelessness Strategy 2013-14 to the Executive with the above observation.

#### 18. HOME IMPROVEMENT POLICY

The Committee received the report on the revised Private Sector Home Improvement Policy for Waverley. The Committee noted that the policy comprised of the Disabled Facilities Grants and Safe and Warm Grants which would assist vulnerable home-owners.

The Corporate O&S Committee noted the resources available for these grants and RESOLVED to recommend the Home Improvement Policy to the Executive.

19. GAS SAFETY, ANTI-SOCIAL BEHAVIOUR (ASB) AND DECANT POLICIES

The Committee received the minutes of the Corporate Overview & Scrutiny Housing Improvement Sub-Committee of 3 June 2013. As part of that meeting the Sub-Committee had considered the three policies and had submitted their observations to the main Committee.

Gas Safety Policy

The Committee considered the Gas Safety Policy and RESOLVED to recommend the policy to the Executive for adoption with no further comments or observations.

Anti-Social Behaviour (ASB) Policy

The Committee considered the ASB Policy and noted that the Committee would be given updates regarding the effectiveness of the strategy. The Committee RESOLVED to recommend the policy to the Executive for adoption with no further comments or observations.

Draft DECANT Policy

The Committee considered the Policy and noted the Sub-Committee had clarified the title to one that was easily understandable and decided upon "Policy when Requiring Tenants to Move Home (Decant)". The Committee noted that this policy related to tenants who were required to move due to major works rather than down-sizing or mutual exchange. The Committee RESOLVED to recommend the policy to the Executive for adoption with no further comments or observations.

24. NEW ARRANGEMENTS FOR HOUSING COMPLAINTS AND ROLE OF DESIGNATED PERSONS

The Committee considered the report regarding the nature of the role of 'designated person' and the skills needed for the successful resolution of complaints. Members were not obliged to accept a request to become a designated person, especially where there may be a conflict of interest or they do not feel they have the relevant skills. All Members would be offered a briefing session before the July Council meeting and the Committee endorsed the suggestion for training for this role. Members agreed that the wording be amended to read 'potentially designated person' as this would apply until the request is formally accepted.

Corporate O&S Committee endorsed the recommendation and RESOLVED to pass on the above observations to the Executive.

25. PERFORMANCE MANAGEMENT EXCEPTION REPORT Q4 (JAN-MARCH 2013) AND END OF YEAR OUTTURN 2012/13

The Committee noted the excellent figure for the collection of Council Tax which put Waverley among the top three Councils in the country. Members were advised that although officers would continue this excellent work the Government changes to the Benefits schemes would mean that a large

number of Council Tax payers would receive less support, which could impact on the collection rate for Council Tax. The Committee would receive monitoring reports to keep Members up to date.

The Committee wished to record their congratulations to officers for the excellent work on Council Tax collection.

The figure reported for LI8 was the average annual rate of return on Council Investments. At the Committee the correct figure of 0.16% was given which related to the full description for the PI of “the average annual rate of return on Council Investments **above market rates**”. The revised target was noted as 0.25%.

Corporate O&S Committee noted the Q4 and end of year outturn performance figures, including the observations of the Housing Improvement Sub-Committee and RESOLVED to endorse the recommendation to the Executive with the above comment.