

To: All Members of the STANDARDS PANEL
(Other Members for Information)

When calling please ask for:

Ema Dearsley, Democratic Services Officer
Policy and Governance

E-mail: ema.dearsley@waverley.gov.uk

Direct line: 01483 523224

Calls may be recorded for training or monitoring

Date: 19 January 2018

Membership of the Standards Panel

Cllr Michael Goodridge (Chairman)
Cllr Mike Band
Cllr Carole Cockburn
Cllr Kevin Deanus
Cllr David Else

Cllr Pat Frost
Cllr Stephen Hill
Cllr David Hunter
Cllr John Ward

Town/Parish Representatives

Cllr Joan Holroyd – Elstead Parish Council
Cllr Richard Jameson – Bramley Parish Council

Dear Member

A meeting of the STANDARDS PANEL will be held as follows:

DATE: MONDAY, 29 JANUARY 2018

TIME: 4.30 PM

PLACE: COMMITTEE ROOM 1, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1. **MINUTES**

To confirm the minutes of the meeting which took place on 3 October 2017.

2. **APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

3. **DISCLOSURES OF INTEREST**

To receive any disclosures of interest.

4. **QUESTIONS BY MEMBERS OF THE PUBLIC**

The Chairman to respond to any questions received from members of the public in accordance with Procedure Rule 10.

MONITORING OFFICER MATTERS

5. **REVIEW OF COMPLAINTS SUBMITTED TO THE MONITORING OFFICER**
(Pages 7 - 16)

The Standards Panel last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in July 2016 and prior to that in January 2015.

This report summarises the complaints received since the last report.

Recommendation

That the Standards Panel receives the report and makes any observations on it to the Monitoring Officer.

CONSTITUTIONAL BUSINESS

6. **REVIEW OF THE SCHEME OF DELEGATION** (Pages 17 - 50)

The Council, at its meeting on 25 April 2017, adopted a new Scheme of Delegation to Officers based on a new approach of operating as an 'exception' scheme, wherein all powers and functions are delegated down to officers with the exception of any powers and functions that either must remain with a specific Committee (or with the Council), or which the Council has previously decided must rest with members.

At the point of adopting the scheme, members were mindful that with such a

significant change in approach and ways of working, the scheme would need to be kept under regular review and any proposed adjustments reported back to members at the appropriate time. Some initial amendments have already been considered and reviewed by the Standards Panel in June 2017, and further changes are now proposed which reflect some areas where officers have identified issues which can now be addressed. The proposed amendments are shown as tracked changes in the report. In accordance with the Council's constitution, the proposed changes to the document are to be commented upon by the Standards Panel prior to their consideration by the Executive and Council.

Recommendation

It is recommended that the Standards Panel reviews the report and recommends to the Executive and Council that the revised Scheme of Delegation be approved and adopted.

7. AUDIT COMMITTEE TERMS OF REFERENCE (Pages 51 - 54)

The Audit Committee reviewed its Terms of Reference at its meeting on 20 November 2017. Changes are proposed which make the document easier to read and the Committee's remit clearer.

Recommendation

It is recommended that the highlighted changes to the Audit Committee's Terms of Reference be recommended to the Council for adoption.

8. EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:

Recommendation

That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

9. LEGAL ADVICE

To consider any legal advice relating to any applications in the agenda.

**For further information or assistance, please telephone
Ema Dearsley, Democratic Services Officer, on 01483 523224 or by
email at ema.dearsley@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL

STANDARDS PANEL – 29 JANUARY 2018

Title:

REVIEW OF COMPLAINTS SUBMITTED TO THE MONITORING OFFICER

[Wards Affected: All]

Summary and purpose:

The Standards Panel last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in July 2016 and prior to that in January 2015.

This report summarises the complaints received since the last report.

How this report relates to the Council's Corporate Priorities:

Good governance and high standards of conduct support the delivery of all of the Council's corporate priorities.

Equality and Diversity Implications:

There are no Equality and Diversity implications.

Financial Implications:

There are no financial implications.

Legal Implications:

The ethical standards regime has been governed by the Localism Act 2011 for a number of years now, and the Council's Code of Conduct under the 2011 Act is well established, and has been reviewed by the Council since first being adopted in July 2012. The Monitoring Officer continues to discharge his statutory functions in relation to ethical standards by reference to the Code of Conduct.

1. Introduction

- 1.1 The Localism Act gave councils an explicit duty to promote and maintain high standards of Member conduct. It obliged the Council to adopt a Code dealing with the high standard of conduct that is expected of Members when acting in their official capacity.
- 1.2 Waverley Borough Council adopted its code of conduct in July 2012 and first revised it in July 2013. The Standards Panel, with input from the Council's designated Independent Persons and co-opted Town and Parish representatives,

reviewed the code again in October 2016 alongside the Council's 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice' and put forward a number of changes which were subsequently agreed by Council. The current code is attached as Annexe 1.

1.3 Each Town or Parish Council in the borough has its own code of conduct but these use the Waverley code as a template.

2. Review of complaints under the new Code since the last report to the Panel in July 2016.

Live complaints passed to me upon appointment

2.1 Upon appointment as Monitoring Officer in July 2016, four existing complaints passed from my predecessor to me for resolution. These related to a Town Councillor, a Borough Councillor and two further Councillors in their capacity as both Borough and Parish Councillors. All related to planning matters and alleged interests and in all cases I sought the views of a designated Independent Person before reaching conclusions on the complaints.

2.2 For all complaints, I did not conclude it would have been reasonable or necessary to undertake any further or formal investigations beyond those undertaken by the Council's previous monitoring officer. However, there were lessons to be learnt in all cases and in addition to some face-to-face conversations with councillors where this was needed, I wrote to all four councillors setting my advice.

2.3 There was also learning for the Council corporately as a result of these complaints, in particular the revision of the code in 2016 to recognise that councillors may have non-pecuniary interests that they consider to have sufficient weight so as to undermine their ability to make an open-minded and objective decision and that where this is the case the member should exclude themselves from the chamber for the duration of it being discussed (paragraph 6.4 of the new code).

Complaints submitted to me since July 2016

2.4 Nineteen complaints have been submitted to the Monitoring Officer since July 2016. Of those:

- 5 complaints related to Town and Parish Councillors; and
- 14 related to Borough Councillors.

Complaints about Town and Parish Councillors

2.5 Of the five complaints submitted to the Monitoring Officer about Town and Parish Councillors since July 2016:

- 3 were informally investigated by the Monitoring Officer and subsequently resolved informally;
- 1 was informally investigated by the Monitoring Officer and subsequently closed because there was no evidence of any breach the Member code of conduct; and

- 1 is a live complaint currently in the initial stages of informal investigation by the Monitoring Officer.

Complaints about Waverley Borough Councillors

2.6 Of the fourteen complaints submitted to the Monitoring Officer about Waverley Borough Councillors since July 2016:

- 9 were informally investigated by the Monitoring Officer and subsequently resolved informally;
- 1 was informally investigated by the Monitoring Officer and subsequently closed because there was no evidence of any breach the Member code of conduct;
- 3 are currently still live and are at the formal investigation stage. Following initial informal investigation by me and subsequent consultation with the Independent Person, the decision was taken to commence a formal investigation into these three complaints. An Independent Investigator was procured and has undertaken his investigation and at the time of writing is currently compiling his draft report; and
- 1 was not accepted on the basis that it had been submitted anonymously. The identity of the complainant was requested and the complainant was given the opportunity to put forward any reasons why their identity should not be disclosed but neither request was granted by the complainant and it was not judged that there was a clear public interest in investigating it anonymously.

Consultation with the Independent Person (IP)

2.7 Waverley Borough Council has appointed three Independent Persons. These are members of the Community who have applied for the post following advertisement of a vacancy for the post and have been appointed by a positive vote from a majority of all the members of Council. The arrangements for dealing with Standards Allegations against Councillors set out more detail about these arrangements.

2.8 In addition to consulting with the IP in respect of the four complaints passed to me by the Council's previous monitoring officer as noted in paragraph 2.1 above, I have also consulted with the IP on two further occasions since. As noted above, the views of the IP were sought by me, as they must be, before deciding to commence a formal investigation into the 3 complaints about a Waverley Borough Councillor. The views of the IP were also sought before reaching the decision to close the complaint against a Town Councillor for lack of evidence of a breach of the code.

Common themes, features and learning points

- 2.9 No one complaint is exactly like another but common themes, features and learning points may be identified without compromising confidentiality. These are as follows:
- i. Alleged breaches of the first general obligation of the code, namely to always treat others with respect, were the most common feature of complaints made to the Monitoring Officer. Complaints by members of the public regarding

alleged disrespect towards them did feature but more common were complaints from members and officers regarding alleged disrespect by members.

- ii. As is indicated by the statistics above, it was possible to resolve the majority of complaints informally. Wherever there is scope to appropriately resolve a complaint informally so that the complainant is satisfied with the outcome and the subject member has the opportunity to reflect on any learn to be learnt from the situation, it is always preferable to do so. Where informal resolution was achieved it relied upon the willingness of those members alleged to have breached their code to constructively engage with the process at the informal stage.
- iii. A number of complaints related in one way or another to section 6 of the code – disclosure of interests and participation. In particular, a number of complaints related to interests which are non-pecuniary but which nonetheless are of a nature which undermine the members' ability to make an open-minded and objective decision and are therefore a reason for the member to withdraw from debate and decision-making. As noted, in paragraph 2.3, the revision of the code to recognise this type of interest has been very helpful. All members need to ensure they are aware of this type of interest and act accordingly.
- iv. Things written by elected members in emails or posted online have featured heavily in complaints. Electronic communications can be created, widely transmitted, read and infinitely shared with an audience the original author may not have intended in just a few moments. This, combined with the absence of tone of voice and context, makes electronic communications far more likely to lead to allegations of code breaches than any other form, especially when sent in haste.

Other matters

- 3.1 The statistics above do not include cases where individuals have consulted the Monitoring Officer about complaining but decided not to complain as has happened on a number of occasions. They also do not include cases where advice has been given by the Monitoring Officer to elected members, members of staff, Town and Parish clerks and councillors, but where no complaint has been made.

Guidance and information

- 4.1 Following the revisions to the code and associated guidance and at the request of the Standards Panel, all member training workshops were delivered by the Monitoring Officer and Deputy Monitoring Officers in December 2016 and January 2017. The Monitoring Officer and Deputy Monitoring Officer also visited Cranleigh Parish Council and Haslemere Parish Council to talk through code changes and answer questions from members.
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Recommendation

That the Standards Panel receives the report and makes any observations on it to the Monitoring Officer.

Background Papers

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

CONTACT OFFICER:

Name: Robin Taylor

Telephone: 01483 523108

E-mail: robin.taylor@waverley.gov.uk

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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 seven Nolan principles of public life set out in Section 28 Localism Act 2011 which Waverley endorses: -
 - selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadershipWaverley 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.
- (6) If you are unsure about whether or not the code of conduct applies to a particular situation, you should consult the Monitoring Officer or Deputy Monitoring Officer.

General Obligations

2. (1) **You must** always treat member colleagues, officers, other organisations 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.

This particularly includes Waverley Borough Council reports which are exempt, which remain confidential until released by a resolution of the Executive or Committee of the Council.

- (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.
 - (6) **You must not** undertake any action that could be regarded as harassment, intimidation and/or bullying of member colleagues, officers, or members of the public.
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 at least £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 (those listed in paragraph 5(4)). 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. You should give sufficient detail of the interests for a member of the public to understand where there might be a conflict of interest.
- (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. If any of these change you should update your Register of Interests entry promptly.

- (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. They also apply to any past and reasonably expected future occupational pension, office, trade, profession or vocation as well as present ones.
- (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 (see paragraph 5(4) above) as soon as you become aware of it.
- (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.
- (4) **Do** declare any other non-pecuniary interest(s) that you consider to have sufficient weight so as to undermine your ability to make an open-minded and objective decision. Where this is the case, **do** exclude yourself from consideration of the item by withdrawing from the chamber for the duration of it being discussed.

In making a judgement about whether a non-pecuniary interest is of sufficient weight as to undermine your objectivity, you should consider what an ordinary member of the public, with knowledge of the relevant facts, would think.

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. Whilst this is particularly relevant for Planning and Licensing Committees, it also applies to other decision-making.

ANNEXE – DISCLOSABLE PECUNIARY INTERESTS

1. Employment, office, trade, profession or vocation

Any employment, occupational pension, office, trade, profession or vocation carried on for profit or gain. If your employment relates to any Waverley service or function you should give full details, including any details of past, present or future contracts with an organisation seeking any permission or licence for Waverley.

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 and property

Any beneficial interest in land or property which is within the area of the Council. This includes your own home if you own it.

5. Licences or Tenancies

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 and Shares

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-

SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS

- 1. General Principles**
- 2. Statutory Officers**
 - 2.1 Head of Paid Service
 - 2.2 Returning Officer and Electoral Registration Officer
 - 2.3 Monitoring Officer
 - 2.4 Chief Finance Officer – ‘Section 151 Officer’
- 3. Chief Executive**
- 4. Head of Community Services and Major Projects**
- 5. Head of Customer and Corporate Services**
- 6. Head of Environmental Services**
- 7. Head of Finance**
- 8. Head of Housing Operations**
- 9. Head of Planning Services**
- 10. Head of Policy and Governance**
- 11. Head of Strategic Housing and Delivery**
- 12. Borough Solicitor**

SCHEME OF DELEGATION OF FUNCTIONS TO OFFICERS

General Principles

1. Powers

- 1.1 This Scheme of Delegation is made pursuant to the Local Government Act 1972 Section 101 (and by reference to Section 100G) and the Local Government Act 2000 Section 15 and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000/2853 (as amended) and all other enabling powers.
- 1.2 The powers in this Scheme of Delegation are only exercisable within the limitations in this Scheme and are subject to the provisions of the Council's Constitution, including the Financial Regulations and the Contract Procedure Rules.
- 1.3 Where the Council, a Committee, Sub-Committee, the Leader, the Executive, a Portfolio Holder or this Scheme of Delegation gives authority for any action, the officer designated shall be entitled to take all necessary steps to do so.
- 1.4 In the event that a Strategic Director or a Head of Service's post ceases to exist or his or her responsibilities are transferred to another officer (as the case may be), temporarily or permanently, then the powers given by this Scheme of Delegation shall be exercisable by the officer in whose area of responsibility the power falls to be exercised.
- 1.5 It is in the nature of any scheme of delegation that those to whom responsibility has been delegated for a particular function, action or decision may require the delegating authority to resume responsibility for that function, action or decision.
- 1.6 Any Head of Service may seek permission to submit a planning application for development to be carried out by the Council (Regulation 3) and for development to be carried out by other parties on land vested in the Council (Regulation 4).

2. Exercise of Functions

- 2.1 All decisions by officers made under this Scheme of Delegation, may only be exercised provided they are within budgetary provision and in accordance with proper authorities, in particular the Financial Regulations.
- 2.2 The Chief Executive may appoint one or more deputies to exercise his or her functions owing to his or her absence or illness.
- 2.3 The Chief Executive may exercise the powers delegated to any Strategic Director, Head of Service or the Borough Solicitor except in relation to those functions allocated to the Chief Finance Officer (within the meaning of Section 151 of the Local Government Act 1972 and Section 112-114A of the Local

Government Finance Act 1988) and to the Monitoring Officer (within the meaning of Sections 5, 5A of the Local Government and Housing Act 1989).

3. Sub-Delegation Scheme

3.1 Where the Chief Executive, Strategic Directors, ~~any~~ Heads of Service or the Borough Solicitor are authorised to take decisions, action to implement such decisions will be taken.

3.1.1 in the name of (but not necessarily personally by) the Chief Executive, Strategic Director, Head of Service or Borough Solicitor; or

3.1.2 by any other officer authorised by the Chief Executive, a Strategic Director, any Head of Service or the Borough Solicitor to take such action in their name or the sub-delegate's own name.

3.2 The Chief Executive, Strategic Directors, each Head of Service and the Borough Solicitor must prepare and maintain a Sub-Delegation Scheme setting out which officers have been authorised to make decisions under their delegated powers and subject to which terms and conditions. Sub-delegation Schemes must be lodged with the Democratic Services Manager.

3.3 Where delegations are to be exercised after consultation with the Leader, Portfolio Holder or nominated officers, the authorised officer will carry out the consultation and ensure that a record is made.

3.4 Where delegations are to be exercised after consultation with a Portfolio Holder and that Portfolio Holder is unavailable, consultation shall take place with the Leader.

3.5 Where delegations are to be exercised after consultation with other officers, if agreement between officers cannot be reached, the matter must be referred to the Chief Executive for consideration.

4. Chief Executive's Urgent Action

4.1 The Chief Executive is authorised to determine matters of an urgent nature within the remit of the Executive and which cannot wait for the next meeting of the Executive, which are not key decisions and which do not contravene established policies or budgets, after consultation with the Leader and relevant Portfolio Holder.

4.2 Any matters determined by the Chief Executive under 4.1 above will be reported to the next meeting of the Executive.

5. Schedule of Authorisations

5.1 A Schedule of Authorisations is attached at Appendix 1.

6. Amendments

6.1 Amendments to this Scheme will be approved by the Council with the following exceptions:

6.1.1 in respect of the officers designated to exercise delegated authorities where changes in the management structure and post titles have resulted from organisational restructures – by the Monitoring Officer.

6.1.2 updates to reflect new legislation where there is no extension to the limit of the existing delegation – by the Monitoring Officer.

7. Interpretation

7.1 Any reference to a statute or statutory instrument should be taken to include any subsequent statute or statutory instrument that replaces, amends or extends it, or contains related provisions.

7.2 The terms “officer”, “staff” or “employee” include any person employed by the Council irrespective of the particular terms and conditions under which they are employed.

7.3 Where a delegation is shown as being both an Executive and Non-Executive Function, advice should be sought from the Monitoring Officer regarding the individual circumstances.

Schedule of Authorisations

1. Legal Proceedings

- 1.1 In accordance with Article 14 of the Constitution the Borough Solicitor is authorised to institute, defend or participate in legal proceedings in respect of all functions of the Council.

2. Representing the Council in Legal Proceedings

- 2.1 The Borough Solicitor is authorised to appoint any appropriate officer to appear on behalf of the Council and to conduct legal proceedings or complete formal proof in court or tribunal. A record of those officers so appointed will be kept by the Borough Solicitor in accordance with the Sub-Delegation Scheme.

3. Land, premises, samples, records, articles, equipment or information

- 3.1 The Chief Executive, Strategic Directors, Heads of Service, and any other officer authorised by those officers, are authorised to
- 3.1.1 enter, visit or inspect premises,
 - 3.1.2 procure samples,
 - 3.1.3 inspect, seize, detain or destroy any goods, articles or equipment;
 - 3.1.4 inspect, seize and detain any records, including records held in electronic form;
 - 3.1.5 demand or require information in accordance with and as provided for by any legislation covering any Council function.
- 3.2 The Chief Executive, Strategic Directors, Heads of Service, Borough Solicitor and any other officer authorised by those officers, may apply to the Justices of the Peace to obtain warrants to enter premises as provided for by any legislation covering any Council function.
- 3.3 A record of any other officers authorised as set out above will be kept by the Chief Executive, Strategic Directors, Heads of Service or Borough Solicitor (as appropriate) in accordance with the Sub-Delegation Scheme referred to in the General Principles.

4. Sealing of Documents

- 4.1 The Chief Executive, Strategic Directors, Borough Solicitor, Head of Policy and Governance and any lawyer employed by the Council are authorised to witness the sealing of Council documents.

5. Instruments of Appointment

- 5.1 The Chief Executive is authorised to issue Instruments of Appointment to the Head of Environmental Services as an inspector under the Health & Safety at Work Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable, having regard to that inspector's qualifications and duties.
- 5.2 The Head of Environmental Services is authorised to issue Instruments of Appointment to an inspector under the Health & Safety at Work etc. Act 1974 and associated Acts together with all related Regulations and Orders specifying the powers exercisable having regard to that inspector's qualifications and duties.

6. Serving of Notices

- 6.1 The Chief Executive, Strategic Directors, Heads of Service, ~~or~~ Borough Solicitor and any other authorised officer employed by the Council are authorised to serve any statutory notices as provided for by any legislation covering any Council function. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Directors, Heads of Service or Borough Solicitor (as appropriate) in accordance with the Sub-Delegation Scheme referred to in the General Principles.

7. Cautions

- 7.1 The Chief Executive, Strategic Directors, Heads of Service and any other officer authorised by those officers, are authorised to act as Cautioning Officer in order to issue cautions to persons making a clear and reliable admission of an offence, where it is considered that the use of a formal caution is appropriate. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Director or Head of Service (as appropriate) in accordance with the Sub-Delegation Scheme referred to in the General Principles.

8. Appeals

- 8.1 Unless otherwise reserved to the Council, the Executive, a Committee or Sub-Committee, as set out in their Terms of Reference, the Chief Executive, Strategic Directors, Heads of Service and any other officer authorised by those officers, are authorised to hear appeals as provided for by any legislation covering any Council function and in accordance with Council Policies. A record of any other officers so authorised will be kept by the Chief Executive, Strategic Directors or Heads of Service (as appropriate) in accordance with the Sub-Delegation Scheme referred to in the General Principles.

9. Consultant in Communicable Diseases Control

9.1 The Consultant in Communicable Diseases Control is authorised by the Council to carry out the following actions:

9.1.1 To apply to Justices for orders and certificates with a view to preventing spread of disease.

9.1.2 To apply to Justices for orders and certificates for the removal of aged or infirm persons to hospital, after consultation with the patient's General Practitioner and the Head of Environmental Services.

9.1.3 To serve notices relating to infected food and control of notifiable diseases.

The Council operates an 'Executive and Leader' model. Therefore the majority of the Council's functions (decision-making) lie with the Executive. However, a range of the Council's functions are 'non-Executive' meaning that those matters are determined either by full Council or by another Committee of the Council in accordance with the Council's Constitution. Where a Function is referred to below as 'Non-Executive', that function cannot be determined by the Executive and would, in the absence of delegation to an officer(s), be decided by full Council or the relevant Committee.

This Scheme of Delegation to Officers must therefore be read in conjunction with the Council's Constitution.

STATUTORY OFFICERS

HEAD OF PAID SERVICE

	Authority	Function
1.	<p>To make all decisions in relation to Human Resources functions in accordance with the Council's Policies and within budgetary provision, except (a), (b), (c), <u>and</u> (d), and (e) below which are reserved to Full Council:</p> <p>(a) the appointment of the Chief Executive or Strategic Directors and the statutory posts;</p> <p>(b) amendments to Terms and Conditions of Employment for Staff and Human Resources Policies where there are additional budget implications;</p> <p>(e) the adoption of the annual Pay Policy Statement;</p> <p>(e) the approval of and amendments to the Pension Policy Statement;</p>	Non-executive

	(de) the settlement of any staff pay award.	
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THE RETURNING OFFICER AND ELECTORAL REGISTRATION OFFICER

	Authority	After Consultation with	Function
2.	Within the approved budget, to approve scales of remuneration of persons employed on Borough and Parish Council elections.	Other local authorities in Surrey.	Non-executive
3.	To amend the designation of a Polling Place, where within six months of an election, (a) a designated polling place unexpectedly becomes unavailable; and (b) it is impractical to report to Council.	Ward councillors, local party agents and, if applicable, official candidates	Non-executive

THE MONITORING OFFICER

	Authority	Function
4.	The general delegations and authorisations for the Monitoring Officer are as set out in the Constitution at Article 12, the Members' Code of Conduct Part 5 Section A, and the Monitoring Officer Protocol at Part 5, Section J.	Non-executive
5.	To appoint members to the Hearing Sub-Committee from the membership of the Standards Panel.	Non-executive
6.	To amend any names and job titles within the Constitution and other constitutional documents resulting from reorganisation or changes in structure/position.	Non-executive

THE SECTION 151 OFFICER

	Authority	Function
7. 6.	The delegations and authorisations for the Section 151 Officer are as set out in the Constitution at Article 12, and the Financial Regulations	Executive

8. 7.	To include properties in the List of Assets of Community Value, and make decisions in relation to claims for compensation.	Executive
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CHIEF EXECUTIVE

Meetings, Members and the Constitution

	Authority	After Consultation with	Function
7.9.	LEFT BLANK (UNUSED) To appoint members to the Independent Remuneration Panel.	Party Group Leaders. All decisions to be reported to all Members by email.	Non-executive
8.	In respect of ad hoc appointments during the year, to appoint or nominate members and representatives on outside bodies; to appoint trustees; and to identify the meetings of outside bodies which are an approved duty for paying allowances.	The party group leaders. All decisions to be reported to all Members by email.	Non-executive
9.	To make changes to the membership of any of the Council's Committees as necessary during the Council year in accordance with the wishes of the respective group leaders. Any changes made to be reported to the next meeting of the Council.	The party group leaders.	Non-executive

	Authority	Function
10.	To include <u>hear and determine appeals relating to applications to include</u> properties in the List of Assets of Community Value, and make decisions in relation to claims for compensation.	Executive

HEAD OF COMMUNITY SERVICES AND MAJOR PROJECTS

11.	To make all day-to-day management decisions relating to the Council's Leisure and Green Space functions.	Executive
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Community Safety

	Authority	Function
12.	To carry out the Council's functions and any actions authorised by the Community Incident Action Group, relating to anti-social behaviour, in accordance with the Anti-Social Behaviour Crime and Policing Act or subsequent legislation	Executive

Voluntary Organisations and Community Grants

	Authority	After Consultation with	Function
13.	To agree Service Level Agreements with voluntary organisations	The relevant Portfolio Holder	Executive

HEAD OF CUSTOMER AND CORPORATE SERVICES

	Authority	Function
14.	To make all day-to-day management decisions relating to the Council's functions as they relate to customer services.	Executive

Estate Management

	Authority	After Consultation with	Function
15.	To agree, with Laser , or any other supplier as agreed by the Council, changes to the cost of supplying gas and electricity services at different times within the contract period in accordance with the terms of the contract	The relevant Portfolio Holder	Executive
16.	To approve expenditure from the Repairs and Maintenance Fund on individual or related items up to £20,000.	The Leader or the appropriate Portfolio Holder	Non-executive or Executive as appropriate to the function being exercised

	Authority	Function
17.	To undertake all actions in relation to the administration of the Council's estate and property portfolio, and its interests in land or property, except the following matters which are reserved to the Executive: (a) Acquisitions or disposal of land or property, and interests in land or property, with a value in excess of £ 100 <u>250</u> ,000; (b) the grant or renewal of all leases in excess of 4 <u>25</u> years.	Executive

HEAD OF ENVIRONMENTAL SERVICES

Licensing

	Authority	Function
18.	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's licensing functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's licensing functions:</p> <p>(i) the Public Health Acts 1875, 1936 and 1961 (as amended) (ii) the Pet Animals Act 1951 (as amended) (iii) Public Health (Control of Disease) Act 1984 (iv) Animal Boarding Establishments Act 1963 (v) Riding Establishments Acts 1964 and 1970 (vi) Dangerous Wild Animals Act 1976 (vii) the Local Government (Miscellaneous Provisions) Acts 1976 and 1982 (as amended), (viii) Breeding and Sale of Dogs (Welfare) Act 1990, Breeding of Dogs Act 1991 and Breeding of Dogs Act 1973 (ix) Prevention of Damage by Pests Act 1949 (x) the Scrap Metal Dealers Act 2013 (xi) Sunday Trading Act 1994 (xii) Town Police Clauses Act 1847 and 1889 (xiii) Guard Dogs Act 1975 (xiv) Animal Health Act 1981 (xv) Animal Health and Welfare Act 1984 (xvi) Control of Dogs Order 1992</p> <p>including but not limited to the following:</p> <p><i>A. Street trading</i> <i>B. Scrap metal dealers</i> <i>C. Animal boarding establishments, riding establishments, dog breeders, pet shops and dangerous wild animals</i> <i>D. Game dealers</i> <i>E. Tattooing, acupuncture, ear piercing, cosmetic piercing and electrolysis</i> <i>F. Sunday trading</i></p> <p>except for</p> <p>approval and amendments to policies relating to functions under the above legislation which is</p>	Non-executive

	reserved to the Licensing Committee;	
19.	On behalf of the Council as the Responsible Authority for Environmental Health and/or the Responsible Authority for Health and Safety, under the Licensing Act 2003, subsequent amendments and all relevant legislation and regulations: (a) to make a relevant representation (b) to apply for a review of a premises licence (c) to apply for a review of a club premises certificate	Non-executive
20.	On behalf of the Council as the Responsible Authority for Licensing under the Licensing Act 2003, subsequent amendments and all relevant legislation and regulations: (a) to make a relevant representation (b) to apply for a review of a premises licence (c) to apply for a review of a club premises certificate	Non-executive

Environmental Protection

	Authority	Function
21.	To make all decisions, take all actions and exercise all powers in respect of the Council's environmental protection functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's environmental protection functions: (i) the Control of Pollution Act 1974 (as amended) (ii) the Environmental Protection Act 1990 (iii) Dangerous Dogs Act 1991 (iv) Noise & Statutory Nuisance Act 1993 (v) the Environment Act 1995 (vi) the Noise Act 1996 (vii) the Dog (Fouling of Land) Act 1996 (viii) The Anti-Social Behaviour Crime and Policing Act 2014 and Anti-Social Behaviour Act 2003 (ix) Clean Neighbourhoods and Environment Act 2005 (x) the Health Act 2006 (xi) the Refuse Disposal (Amenity) Act 1978 (xii) Zoo Licensing Act 1981 (xiii) Water Industry Act 1991 (xiv) Environment Act 1995 (xv) Health Act 2006	Executive

	<p>(xvi) Sunday Trading Act 1994 (xvii) Clean Air Act 1993 (xviii) Pollution Prevention and Control (England & Wales) Regulations 2000 (as amended) (xix) Pollution Prevention and Control Act 1999 (xx) Criminal Justice and Public Order Act 1994 (xxi) Criminal Justice and Police Act 2001</p> <p>including but not limited to the following:</p> <p><i>A. Pollution control</i> <i>B. Air pollution control and clean air;</i> <i>C. smoke free premises</i> <i>D. Waste collection</i> <i>E. Recycling</i> <i>F. Controlled waste</i> <i>G. Contaminated land</i> <i>H. Statutory nuisance</i> <i>I. Litter</i> <i>J. Dangerous and Out of Control dogs</i> <i>K. Dog fouling</i> <i>L. Authorisations in relation to controlled processes</i> <i>M. High Hedges complaint</i> <i>N. Graffiti removal</i> <i>O. Noise nuisance</i> <i>P. Abandoned vehicles and other refuse</i> <i>Q. Prevention of crime and disorder</i> <i>R. Drug and alcohol abuse/misuse of substances</i></p> <p>except for</p> <p>the award of the Waste Collection and Recycling Contract which is reserved to the Executive.</p>	
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Environmental Health

	Authority	Function
22.	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's environmental health functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's environmental health functions:</p> <p>(i) the Local Government Act 1972 (ii) the Local Government (Miscellaneous</p>	Executive

	<p>Provisions) Act 1976 (iii) the Public Health Act 1961 (iv) the Clean Neighbourhoods and Environment Act 2005 (v) the Prevention of Damage by Pests Act 1961 (vi) National Assistance Acts 1948 and 1951 (vii) Water Act 1989 (viii) Disability Discrimination Act 1995</p> <p>including but not limited to the following:</p> <p><i>(a) drains, private sewers, water closets or soil pipes</i> <i>(b) a satisfactory supply of wholesome water</i> <i>(c) the control rats and mice</i> <i>(d) filthy or verminous premises, articles or persons</i> <i>(e) the prevention and suppression of nuisances</i> <i>(f) emergency situations arising outside normal working hours.</i></p>	
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Food and Health & Safety

	Authority	Function
23.	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's food safety and health & safety functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation and any associated regulations relating to the Council's food safety and health & safety and pesticides functions:</p> <p>(i) the European Communities Act 1972 (ii) the Food and Environment Protection Act 1985, (iii) the Food Safety Act 1990, (iv) the Health & Safety at Work etc. Act 1974, (v) Sunday Trading Act 1994, (v) Public health (Control of Diseases) Act 1984 (and regulations made thereunder (with the exception of those dealt with under the health protection regulations)) (vi) Game Act 1831 (vii) Sea Fisheries (Shellfish) Act 1967 (viii) Offices Shops and Railway Premises act 1963 (ix) Food and Environment Protection Act 1985</p>	Non-executive/Executive

Land Drainage

	Authority	Function
24.	To take all actions to alleviate flooding under the Water Management Acts, Water Act 1989 and Land Drainage Act 1991 relating to the Council's land drainage functions, except the following which are reserved to the Executive: (i) approval of the annual Drainage Works Programme; (ii) authority to submit funding bids for projects requiring external funding for drainage works on third party land where this would require the Council to part-fund from the Drainage Reserve	Executive

Car Parks

	Authority	Function
25.	To make all day to day management decisions relating to the management and use of the Council's car parks, except for the following which are reserved to the Council: (a) The adoption of and amendments to the Council's Car Parking Strategy; (b) The setting of off-street car parking charges.	Non-executive
26.	To make all decisions, take all actions and exercise all powers in respect of the Council's parking functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's parking functions: (i) Highways Act 1980 (ii) Road Traffic Regulation Act 1984 (iii) Road Traffic Regulation Act 1991 (iv) Traffic Management Act 2004	Executive

Emergency Planning

	Authority	Function
27.	To make all decisions, take all actions and exercise all powers in respect of the Council's functions as a Category 1 Responder in accordance with any one or number of the	Non-executive

	<p>following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's emergency planning functions as a Category 1 Responder:</p> <p>(i) Civil Contingencies Act 2004.</p>	
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HEAD OF FINANCE

Financial Management

	Authority	After Consultation with	Function
28.	To set the Council Tax Base.	The relevant Portfolio Holder	Executive
29.	To monitor and manage the revenue reserves and provisions of the Council, including the release of such funds within agreed policy guidelines.	Chief Executive and the relevant Portfolio Holder.	Executive

	Authority	Function
30.	To determine areas and levels of cover for insurance.	Executive
31.	To approve spending from the Insurance Fund in individual projects or a group of related projects or a group of related items up to a maximum of £20,000.	Executive
32.	To determine rates of interest payable under: (a) Public Health Acts and Housing Acts (rechargeable works executed by the Council) (b) Local Government (Miscellaneous Provisions) Act 1976 (dangerous trees and restoration of supplies).	Non-executive

Council Tax and NNDR

	Authority	Function
33.	To apportion rates under Section 44A of the Local Government Finance Act 1988, and any subsequent legislation, on premises partially unoccupied for short periods.	Executive
34.	To grant <u>determine</u> applications for <u>Discretionary Rate Relief and Discretionary Council Tax Reduction which meet in accordance with</u> the adopted <u>policy</u> criteria and <u>with discretion to grant applications which</u> can be funded <u>from</u> within the approved budget.	Executive

35.	To execute warrants of arrest for Council Tax and Non-Domestic Rate debts	Executive
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HEAD OF HOUSING OPERATIONS

Housing and Homelessness

	Authority	Function
36.	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's housing and homelessness functions:</p> <ul style="list-style-type: none"> (i) Housing Act 1985 <u>(ii)</u> Local Government and Housing Act 1985 (ii)<u>(iii)</u> Local Government (Miscellaneous Provisions) Acts 1976 and 1982 (iii)<u>(iv)</u> Housing Act 1996 (iv)<u>(v)</u> Children Act 1989 (v)<u>(vi)</u> Regulation 3 of the Town and Country Planning (General) Regulations 1992 – except for the determination of planning applications which is reserved to the relevant Area or Joint Planning Committee (vi)<u>(vii)</u> Housing Act 2004 (vii)<u>(viii)</u> Anti-Social Behaviour, Crime and Policing Act 2014 (viii)<u>(ix)</u> Clean Neighbourhoods and Environment Act 2005 (ix)<u>(x)</u> Leasehold Reform, Housing and Urban Development Act 1993 (x)<u>(xi)</u> Leasehold Reform Act 1967 (xi)<u>(xii)</u> Housing and Planning Act 2016 (xii)<u>(xiii)</u> Homelessness Act 2002 (xiii)<u>(xiv)</u> Housing, Grants, Construction and Regeneration Act 1996 (xiv)<u>(xv)</u> Prevention of Damage by Pests Act 1949 (xv)<u>(xvi)</u> Public Health Acts 1936 and 1961 (xvi)<u>(xvii)</u> Caravan Sites and Control of Development Act 1960 <u>(xviii)</u> Environmental Protection Act 1990 <u>(xix)</u> Caravan Sites Act 1968 and Mobile Homes 	Non-Executive/Executive

	<u>Act 2013</u> <u>(xx) Protection from Eviction Act 1977</u> <u>(xxi) Criminal Law Act 1977</u> <u>(xxii) Building Act 1984</u> <u>(xxiii) Energy Act 2013</u> (xvii) <u>(xxiv) Energy Act 2011</u>	
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	Authority	After Consultation with	Function
37.	To review decisions taken under the Personal Files (Housing) Regulations Act 1989 concerning access to, or correction or erasure of information held in housing records of which a tenant (or member of his family) is aggrieved.	The relevant Portfolio Holder	Executive

	Authority	Function
38.	To make decisions under Access to Personal Files (Housing) Regulations 1989.	Executive
39.	To make decisions under the Rent Deposit Guarantee Scheme.	Executive

HEAD OF PLANNING

Development Control and Planning Policy

	Authority	After Consultation with	Function
40.	To determine major planning applications where these are resubmitted applications previously refused only for SPA reasons which are now resolved and where: (a) the application is not materially different from the original application; (b) the material considerations affecting the decision have not changed; (c) there is no request from a councillor to call in the application for determination by the Committee as set out in 3(b) below.	The Chairman of the Joint Planning Committee and Ward Councillors	Non-executive
41.	To agree variations to Section 106 legal agreements under the Town and Country Planning Act 1990 which relate to planning applications determined by the Area Planning Committees and Joint Planning Committee	The Chairman of the Joint Planning Committee and Ward Councillors	Non-executive

	Authority	Function
42.	To make all decisions, take all actions and exercise all powers in respect of the Council's Development Control Management , Planning Policy and Planning Enforcement functions in accordance with any one or number of the following legislation (and any regulations and/or statutory instruments made thereunder) and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's Development Control Management , Planning Policy and Planning Enforcement and Building Control functions: (i) Caravan Sites and Control of Development Act 1960 (ii) Countryside and Rights of Way Act 2000 (iii) Enterprise and Regulatory Reform Act 2013	Non-Executive/Executive

	<ul style="list-style-type: none"> (iv) Environment Act 1995 (v) Environmental Protection Act 1990 (vi) Growth and Infrastructure Act 2013 (vii) Housing Act 1996 (viii) Housing Act 2004 (ix) Human Rights Act 1998 (x) Infrastructure Act 2015 (xi) Local Democracy, Economic Development and Construction Act 2009 (xii) Local Government Act 2003 (xiii) Localism Act 2011 (xiv) Planning (Hazardous Substances) Act 1990 (xv) Planning (Listed Buildings and Conservation Areas) Act 1990 (xvi) Planning Act 2008 (xvii) Planning and Compensation Act 1991 (xviii) Planning and Compulsory Purchase Act 2004 (xix) Pollution Prevention and Control Act 1999 (xx) Town and Country Planning Act 1990 <u>(xxi) Building Act 1984</u> <u>(xxii) Self-build and Custom Housebuilding Act 2015</u> <u>(xxiii) Neighbourhood Planning Act 2017</u> <u>(xxiv) Anti-Social Behaviour Act 2003</u> 	
43.	<p>(A) to determine planning applications, applications for advertisement consent, non-material and minor material amendments applications, details to comply with conditions, variation/removal of condition applications, prior notifications/prior approval notices and certificates of lawfulness <u>(after consultation with the Borough Solicitor for applications of certificates of lawfulness)</u>;</p> <p>(B) to determine applications for listed building consent and to take action in relation to listed buildings and Conservation Areas; and</p> <p>(C) to respond to consultations and notifications from other local authorities, public bodies, etc.;</p> <p>(D) to determine the need for an <u>eEnvironmental Impact aAssessment and/or a Strategic Environmental Assessment</u>;</p> <p>(E) to take direct action/seek injunctions in relation to breaches of planning control, remove unauthorised signage/advertisements and</p>	Non-executive

	<p>remedying the condition of land;</p> <p>(F) to serve, amend, vary, withdraw, revoke any notices, permissions, certificates (as appropriate) (including but not limited to: enforcement notices, breaches of condition notices, temporary stop notices, stop notices, amenity notices, planning contravention notices, community infrastructure stop notices, certificates of lawfulness);</p> <p>(G) the making and/or adoption of any plan for the purposes of neighbourhood planning</p> <p>except:</p> <p>(a) planning applications that must be referred to the Joint Planning Committee in accordance with Part 3 of the Constitution;</p> <p>(b) any planning application where, within three weeks of the publication of the weekly list of planning applications, any councillor from the relevant Area Committee (for the Committee including all or part of the planning application site concerned) makes a request to the Head of Planning (or any officer(s) nominated by them), supported in writing by the relevant Town or Parish Council, putting forward matters that are relevant planning grounds, to refer an application to the next appropriate meeting of the Area or Joint Planning Committee for determination;</p> <p>(c) any planning application where, within three weeks of the publication of the weekly list of planning applications, any councillor from the relevant Area Committee (for the Committee including all or part of the planning application site concerned) makes a request to the Head of Planning (or any officer(s) nominated by them), putting forward matters that are relevant planning grounds, to refer an application to the next appropriate meeting of the Area or Joint Planning Committee for determination.</p> <p><i>(For (b) and (c) above) Where the three-week call-in period has expired, but the Head of Planning is satisfied that the circumstances are so exceptional and the application has not been determined, they may, after consultation with the Chairman of the relevant Committee, arrange for that application to</i></p>	
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	<p>be referred to the Committee;</p> <p>(d) any planning application submitted by or on behalf of a serving Councillor or employee of the Council, or the spouse or partner of any of the above persons;</p> <p>(e) any planning application where an objection from a statutory consultee remains unresolved and the officer's recommendation is to approve the application;</p> <p>(f) any planning application where the Council is the applicant;</p> <p>(g) any planning application which is required to be referred to the Secretary of State.</p>	
44.	<p>To take action, make decisions <u>(including determining applications for works to protected trees and prior notifications of the intention to carry out works to trees in conservation areas)</u>x, serve notices and carry out works relating to trees pursuant to the Town and Country Planning Act 1990, the Hedgerow Regulations 1997 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, and any Regulations made in relation to this legislation or any amendments,</p> <p>except</p> <p>the confirmation or revocation of a tree preservation order where objections have been received which is reserved for decision by the Area Planning Committee.</p>	Non-executive
45.	<p>To agree the terms of, and variations to, Section 106 Legal Agreements under the Town and Country Planning Act 1990 in connection with the grant of planning permission under delegated powers and Section 106 agreements following a refusal on appeal.</p>	Non-executive

Licensing

	Authority	Function
46.	Under the Licensing Act 2003: (a) to respond to the Licensing Authority in	Non-executive

	connection with consultations on applications on behalf of the local planning authority; (b) to apply for a review of a premises licence or a club premises certificate.	
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Street Naming and Numbering

	Authority	After Consultation with	Function
47.	To determine the names of highways under the Public Health Act 1925 (including subsequently amending and replacement legislation) .	The appropriate Portfolio Holder and appropriate ward councillors	Executive

	Authority	Function
48.	To exercise the street numbering function under the Public Health Act 1925 (including any subsequent amending and replacement legislation) .	Executive

Building Control

	Authority	After Consultation with	Function
49.	To adjust Building Control charges appropriately to ensure income will cover the cost of the chargeable service	The relevant Portfolio Holder	Executive

	Authority	Function
50.	To exercise the Council's powers in relation to Building Control legislation, including, but without prejudice to the generality of the foregoing, the determination of applications for the approval of plans and specifications, applications for relaxations, the issue and service of all Notices, the making of requirements and the decision to carry out works in default.	Executive
51.	To exercise the powers and duties of the Council, including the recovery of costs, relating to dangerous, dilapidated or defective buildings or structures, hoardings, scaffolding and the demolition of buildings	Executive

HEAD OF POLICY AND GOVERNANCE

Members Meetings and the Constitution

	Authority	After Consultation with	Function
52.	To approve the annual timetable of meetings of the Council and Standing Committees.	The Leader	Non-executive
52A7.	<u>To appoint members to the Independent Remuneration Panel.</u>	<u>Party Group Leaders.</u> <u>All decisions to be reported to all Members by email.</u>	<u>Non-executive</u>
52B8.	<u>In respect of ad hoc appointments during the year, to appoint or nominate members and representatives on outside bodies; to appoint trustees; and to identify the meetings of outside bodies which are an approved duty for paying allowances.</u>	<u>The party group leaders.</u> <u>All decisions to be reported to all Members by email.</u>	<u>Non-executive</u>
52C.	<u>To make changes to the membership of any of the Council's Committees as necessary during the Council year, in accordance with the wishes of the respective group leaders. Any changes made to be reported to the next meeting of the Council.</u>	<u>The party group leaders</u>	<u>Non-executive</u>
53.	The determination of applications for street collections to provide funding to meet a major local, national, or international disaster.	The Chairman of the Licensing and Regulatory Committee.	Non-executive
54.	On behalf of the Council, to submit objections, and pursue such objections at a public inquiry if needed, to: (a) applications for operators licences (including variations) made under the Goods Vehicles (Licensing of Operators) Act 1995; and	The appropriate ward councillors.	Non-executive

	(b) reviews undertaken of existing licences.		
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Communications and PR

	<u>Authority</u>	<u>Function</u>
<u>556.</u>	<u>To make all day to day management decisions relating to the Council's functions as they relate to communications and public relations.</u>	<u>Executive</u>

Licensing

	<u>Authority</u>	<u>Function</u>
<u>565.</u>	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's licensing functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's licensing functions:</p> <ul style="list-style-type: none"> (i) the Local Government (Miscellaneous Provisions) Act 1976; (ii) the Town Police Clauses Act 1847; (iii) the Local Government (Miscellaneous Provisions) Act 1982; (iv) The Regulatory Reform Act 2001 (v) Licensing Act 2003; (vi) the Gambling Act 2005 <p>and any subsequent legislation to take all actions relating to the Council's licensing functions, including but not limited to the following:</p> <p><i>A. Personal, premises, club premises licences and Temporary Event Notices</i></p> <p><i>B. Hackney carriage drivers and vehicles, and private hire drivers, vehicles and operators (except any applications that reveal convictions for offences that might affect the suitability of a person to hold a licence)</i></p> <p><i>C. House to house and street collections</i></p> <p><i>D. Club gaming/club machine permits and small society lotteries</i></p> <p><i>E. Sexual Entertainment Venues</i></p> <p>except for</p>	Non-Executive

	<p>(a) approval of and amendments to the Statement of Licensing Policy and the Gambling Policy which are reserved to Council;</p> <p>(b) approval and amendments to policies relating to functions under the Acts set out above which is reserved to the Licensing <u>and Regulatory</u> Committee;</p> <p>(c) approval of increases in the hackney carriage fare scale and amendments to the scale of charges for hackney carriage and private hire licence fees, which is reserved to the Licensing and Regulatory Committee;</p> <p>(d) the designation of and amendments to hackney carriage vehicle ranks which is reserved to the Licensing and Regulatory Committee;</p> <p>(e) the power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption which is reserved to the Licensing and Regulatory Committee;</p> <p>(f) all applications and appeals reserved to the Licensing Sub Committee as set out in its Terms of Reference at Part 3, Section E of the Constitution.</p>	
56.	To make all day to day management decisions relating to the Council's functions as they relate to communications and public relations.	Executive

Closure of Streets

	Authority	Function
57.	To make and issue temporary street closures orders in connection with special events in accordance with Section 21 of the Town Police Clauses Act 1847.	Executive

HEAD OF STRATEGIC HOUSING AND DELIVERY

	Authority	Function
58.	<p>To make all decisions, take all actions and exercise all powers in respect of the Council's housing and homelessness functions in accordance with any one or number of the following legislation and/or any adopted policy(ies) of the Council and/or any other subsequent new or replacing legislation relating to the Council's housing and homelessness functions:</p> <p><u>(i) Housing Act 1985</u> (i)<u>(ii) Local Government (Miscellaneous Provisions) Acts 1976 and 1982</u> (ii)<u>(iii) Local Government and Housing Act 1985</u> (iii)<u>(iv) Housing Act 1996</u> (iv)<u>(v) Children Act 1989</u> (v)<u>(vi) Regulation 3 of the Town and Country Planning (General) Regulations 1992 – except for the determination of planning applications which is reserved to the relevant Area or Joint Planning Committee</u> (vi)<u>(vii) Housing Act 2004</u> (vii)<u>(viii) Anti-Social Behaviour, Crime and Policing Act 2014</u> (viii)<u>(ix) Clean Neighbourhoods and Environment Act 2005</u> (ix)<u>(x) Leasehold Reform, Housing and Urban Development Act 1993</u> (x)<u>(xi) Leasehold Reform Act 1967</u> (xi)<u>(xii) Housing and Planning Act 2016</u> (xii)<u>(xiii) Homelessness Act 2002</u> (xiii)<u>(xiv) Housing, Grants, Construction and Regeneration Act 1996</u> (xiv)<u>(xv) Prevention of Damage by Pests Act 1949</u> (xv)<u>(xvi) Public Health Acts 1936 and 1961</u> (xvi)<u>(xvii) Caravan Sites and Control of Development Act 1960</u> (xvii)<u>(xviii) Environmental Protection Health Act 1990</u> <u>(xix) Public Health (Control of Disease) Act 1984</u> <u>(xx) Caravan Sites Act 1968 and Mobile Homes Act 2013</u> <u>(xxi) Protection from Eviction Act 1977</u> <u>(xxii) Criminal Law Act 1977</u> <u>(xxiii) Building Act 1984</u></p>	Non-Executive/Executive

	(xxiv) Energy Act 2013 (xxv) Energy Act 2011	
59.	To evaluate opportunities to buy back all or part of a former Council property (to include determining right of first refusal and percentage of ownership).	Executive
60.	To proceed to initial assessment of buy back or open market purchase if the opportunity meets the Council's criteria/policy.	Executive
61.	To proceed to initial assessment for a land purchase if the opportunity meets the Council's criteria/policy	Executive

	Authority	After Consultation with	Function
62.	To proceed to initial assessment of buy back or open market purchase if the opportunity does not meet the Council's criteria/policy	Portfolio Holders on the Housing Delivery Board	Executive
63.	To proceed to initial assessment for a land purchase if the opportunity does not meet the Council's criteria/policy	Portfolio Holders on the Housing Delivery Board	Executive
64.	To proceed to negotiation stage of buy back or open market purchase if the purchase price falls within overall budget	Portfolio Holders on the Housing Delivery Board	Executive
65.	To negotiate on price of buy back or open market purchase	Strategic Director and Estates and Valuation Manager	Executive
66.	To proceed with buy back or open market purchase if within budget or purchase price and works are needed	Portfolio Holders on the Housing Delivery Board	Executive
67.	To negotiate on land purchases	Strategic Director and Estates and Valuation Manager	Executive
68.	To proceed with land purchase if within agreed financial limits	Portfolio Holders on the Housing Delivery Board	Executive

Private Sector Housing

	Authority	After Consultation with	Function
69.	To determine the charges for default works undertaken pursuant to the Public Health and Housing Acts and the clearance of private drains and private sewers, all in respect of Environmental Protection legislation.	The relevant Portfolio Holder	Executive

	Authority	Function
70.	To undertake all actions relating to the Council's functions under the Housing Grants, Regeneration and Construction Act 1996 and any subsequent legislation, including but not limited to the following: (a) Disabled facilities grants (b) Renovation grants (c) common parts grants, (d) house in multiple occupation grants (e) major repair grants	Executive
71.	To undertake all actions relating to the Council's functions under the Regulatory Reform (Housing Assistance) (England & Wales) Order 2002 for the securing of loans given for the improvement or repair of dwellings as a formal Land Charge.	Executive
72.	To undertake all actions relating to the Council's functions under the Housing Acts and any subsequent legislation regard to unfit housing and houses in multiple occupation.	Executive
73.	To administer and approve loans under the Flexible Improvement Loans Scheme.	Executive

Housing and Homelessness

	Authority	Function
74.	To make decisions to depart from the Council's Allocations Policy in special needs circumstances.	Executive
75.	To review decisions under the Allocation of Housing and Homelessness (Review Procedures) Regulations 1999.	Executive

Burial or Cremation

	Authority	Function
76.	To arrange the burial or cremation of persons for whom no other suitable arrangements for the disposal of their remains have been made (under Section 46 of the Public Health (Control of Disease) Act 1984) and any necessary administration of the deceased's estate in liaison with the Treasury Solicitor.	Executive

BOROUGH SOLICITOR

Data Protection Act 1998

	Authority	Function
77.	To waive in cases of hardship the subject access fee allowed for under the Data Protection Act 1998.	Executive
78.	To evaluate opportunities to buy back all or part of a former Council property (to include determining right of first refusal and percentage of ownership).	Executive

Regulation of Investigatory Powers Act 2000

	Authority	After Consultation with	Function
79.	To amend the Council's Regulation of Investigatory Powers Act 2000 Policy and Procedure, to reflect changes to the legislation or for better performance of the Policy.	The relevant Portfolio Holder and the Leader	Executive
80.	To add to, or delete from, the list of authorised officers in the Council's Policy and Procedure pursuant to the Regulation of Investigatory Powers Act 2000.	The relevant Portfolio Holder and the Leader	Executive

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Audit Committee

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

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

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

Comment [a1]: This has now been added as a function of the Committee under heading 3.

Terms of Reference

The Terms of Reference are as follows:

1. Corporate Governance

1.1 To ~~consider~~ review the Council's arrangements for corporate governance and recommend necessary actions to ensure compliance with best practice as set out in the current CIPFA/SOLACE Framework "Delivering Good Governance in Local Government" and any revision thereof.

~~1.2 To review the Council's compliance with its own and other published regulations, standards and controls, covering both financial and general issues and, if appropriate, make recommendations to Council.~~

~~1.3.2 To maintain an overview of the Council's Constitution in respect of contract procedure rules, and financial regulations and recommend their adoption by the Council, and codes of conduct and behaviour.~~

~~1.3 To consider the Council's compliance with its own and other published regulations, standards and controls, covering both financial and general issues~~

1.4 To ~~monitor~~ review Council policies in "Whistleblowing" and the anti-fraud and anti-corruption strategy and the Council's complaints handling process and recommend any changes to Council.

1.5 To monitor the effective development and operation of internal control in the Council with particular reference to all aspects of risk management, including Waverley's Corporate Risk Registers, all aspects of risk management.

~~1.6 To approve the Council's Annual Governance Statement.~~

~~1.7 To consider any reports published by bodies, other than the external auditor, charged with inspecting the Council's performance or arrangements for corporate governance.~~

1.6.8 To review any issue referred to it by the Head of Paid Service or a director or any other Council ~~body~~ Committee.

~~1.9 To request a report from any Head of Service relating to an outstanding internal audit recommendation issue.~~

1.7.6 To approve the Council's Annual Governance Statement.

Comment [a2]: This is no longer relevant as it related to publications by the Audit Commission.

Comment [a3]: This has been moved to 3.5 below.

2. External scrutiny Audit

- 2.1 To consider whether appropriate accounting policies have been followed in the preparation of the annual statement of accounts and to approve any changes to these policies.
- 2.2 To ~~consider receive~~ all ~~communications reports~~ from the external auditor to the Audit Committee, ~~including:~~
- ~~2.2.1 the audit letter;~~
- ~~2.2.2 the report on issues arising from the audit of the accounts; and~~
- ~~2.2.3 any other reports requested by the Audit Committee from the external auditor.~~
- 2.3 To consider ~~whether there are any~~ concerns arising from the audit or the accounts and to agree appropriate action to be taken that need to be brought ~~including bringing the matter~~ to the attention of the Council. ~~that arise from:~~
- ~~2.3.1 the audit; or~~
- ~~2.3.2 the accounts.~~
- 2.4 To consider and, ~~if thought fit,~~ approve the annual statement of accounts.
- 2.5 To comment on the scope and depth of external audit work and to ensure that it gives value for money, especially with regard to reports dealing with risk management and performance matters.
- ~~2.6 To oversee all aspects of risk management, including Waverley's Corporate Risk Registers.~~
- ~~2.6 To make recommendations to Council regarding the appointment of the External Auditor.~~

Comment [a4]: The titles of these reports are subject to periodic changes and so have been removed.

Comment [a5]: This is now covered by 1.5 above.

3. Internal audit

- ~~3.1 To consider the Annual Review of the system of Internal Audit.~~
- ~~3.1 To approve the Internal Audit Charter.~~
- ~~3.2 To approve the Annual Internal Audit (Risk-Based) Plan.~~
- ~~3.3~~ 2 To consider the Internal Audit Client Manager's Annual Report and Internal Audit Opinion.
- ~~3.3 To approve the annual Internal Audit Service Plan.~~
- 3.4 To consider the current Internal Audit Plan and summaries of internal audit activity by ~~department~~ Service Area and consider the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- 3.5 To consider internal audit reports detailing recommendations not implemented within the specified timescale and to agree appropriate action, including ~~1.9~~ To requesting a report from any Head of Service relating to an outstanding internal audit recommendation issue.
- ~~3.6 To consider proposed internal audit activity and the range of service areas to be covered and the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.~~
- ~~3.6~~ 7 To commission work ~~or reports~~ from the Internal Audit Service.
- ~~3.8 To consider any specific internal audit reports requested by the Audit Committee.~~
- ~~3.7~~ 9 To monitor the progress of any specific internal audit projects not included in the Audit Plan.
- ~~3.10~~ 8 To consider reports dealing with the appointment, management and performance of the providers of internal audit services.

Comment [a6]: This is effectively the same as 3.3 above.

3.449 To comment on the scope and depth of internal audit work and to ensure that it gives value for money, especially with regard to reports dealing with risk management and performance matters.

Composition of Audit Committee

(a) Membership and Meetings

The Audit Committee will

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

(b) Quorum

The quorum for meetings will be three Councillors.

Revised: 0320.11.17

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