

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

When calling please ask for:

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Calls may be recorded for training or monitoring

Date: 11 January 2019

Membership of the Standards Committee

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

Cllr John Gray
Cllr David Hunter
Cllr Robert Knowles
Cllr John Ward

Town/Parish Representatives

Mrs Joan Holroyd

Vacancy

Dear Member

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

DATE: MONDAY, 21 JANUARY 2019

TIME: 5.00 PM

PLACE: COMMITTEE ROOM 1 - COUNCIL OFFICES

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 11 June 2018 (to be laid on the table 30 minutes before the meeting commences).

2. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

3. DISCLOSURES OF INTERESTS

To receive from Members, declarations of interests in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

4. QUESTIONS BY MEMBERS OF THE PUBLIC

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

The deadline for receipt of questions is Monday 14 January 2019.

5. QUESTIONS FROM MEMBERS

The Chairman to respond to any written questions received from Members in accordance with Procedure Rule 11.

The deadline for receipt of questions is Monday 14 January 2019.

MONITORING OFFICER MATTERS

6. MONITORING OFFICER'S REPORT (Pages 7 - 20)

The Standards Panel last received a report of complaints submitted to the Monitoring Officer under the Member Code of Conduct in January 2018. This report summarises the complaints received since the last report, and also updates the Committee on a number of matters that fall within its remit.

Recommendation

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

7. STANDARDS ARRANGEMENTS - APPOINTMENT OF INDEPENDENT PERSONS (Pages 21 - 30)

Under the Localism Act 2011, the standards arrangements adopted by the Council are required to include provision for the appointment of at least one Independent Person. Waverley has appointed two Independent Persons, whose term of office ends in May 2019.

The Standards Committee is asked to consider the arrangements to recruit and appoint Independent Persons to take office from May 2019.

Recommendation

The Standards Committee is asked to:

- 1) **agree the joint arrangements to advertise, shortlist and interview candidates for the appointment of Independent Persons from May 2019; and**
- 2) **recommend to Council that the Monitoring Officer be given delegated authority to confirm the appointment of at least three Independent Persons for a four-year term from May 2019, after consultation with the Chairman of the Standards Committee.**

8. MEMBERS' CODE OF CONDUCT (Pages 31 - 44)

Waverley adopted a local *Members' Code of Conduct and Arrangements for dealing with complaints under the Code of Conduct* on 17 July 2012, in accordance with the requirements of the Localism Act 2011. The Code of Conduct, Arrangements for dealing with Complaints, and the Planning Code of Conduct, were reviewed in 2016, and revised versions agreed by Council on 18 October 2016.

This report proposes a number of additions to the Code of Conduct which provide additional clarification on the core principles of the Code, and address some procedural matters on which the Code is currently silent.

Recommendation

It is recommended that the Standards Committee considers the proposed amendments to the Members Code of Conduct and recommends to Council that these be adopted.

CONSTITUTIONAL MATTERS

9. STANDARDS COMMITTEE - TERMS OF REFERENCE (Pages 45 - 48)

On 17 July 2018, Council agreed to re-designate the Standards Panel as the Standards Committee, recognising that the remit of the 'Panel' had grown beyond that originally envisaged.

To formalise the constitutional basis for the Standards Committee, the Terms of Reference as set out in Article 9 of the Constitution have been reviewed and

updated, and are attached.

Recommendation

That the Standards Committee recommends to Council that the revised Terms of Reference for the Committee be adopted.

10. REVIEW OF SCHEME OF DELEGATION (Pages 49 - 84)

The Scheme of Delegation to Officers was comprehensively reviewed and revised in 2017.

Officers have been asked to propose revisions to the Scheme of Delegation, based on their experience of using the Scheme over the past 12 months.

The Standards Committee is asked to consider the proposed amendments and make recommendations to Council to approve the revised Scheme of Delegation.

Recommendation

It is recommended that the Standards Committee endorses the proposed revisions to the Scheme of Delegation, and recommends that Version 5 of the Scheme of Delegation be approved by Council.

11. ELECTED MEMBER ACCESS TO INFORMATION (Pages 85 - 90)

In June 2018 the Chief Executive, Monitoring Officer and Borough Solicitor met with the Leader and Deputy Leader and a number of other councillors to discuss whether or not the Council needed a separate protocol or advice note clarifying Waverley Elected Members' rights to access information.

It was agreed that this matter should be put to the Standards Committee for their consideration.

This report accordingly sets out a draft guidance and protocol note in respect of Elected Members' access to information at Waverley Borough Council.

The Standards Committee is asked to consider whether any such document is needed and, if so, to consider putting forward, subject to any changes it wishes to make, the attached draft document to Council for approval.

Recommendation

It is recommended that the Standards Committee considers whether a new guidance and protocol on Elected Member access to information at Waverley Borough Council is needed and, if so, to consider putting forward, subject to any changes it wishes to make, the attached draft document to Council for approval.

12. 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.

**For further information or assistance, please telephone
Fiona Cameron, Democratic Services Manager, on 01483 523226 or
by email at fiona.cameron@waverley.gov.uk**

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

MONITORING OFFICER'S REPORT

[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 January 2018. This report summarises the complaints received since the last report, and also updates the Committee on a number of matters that fall within its remit.

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.

Introduction

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.

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.
3. Each Town or Parish Council in the borough has its own code of conduct but these use the Waverley code as a template so are either identical or similar.
4. There is a separate report on this agenda that highlights matters that the Committee may wish to include in a revised Code of Conduct.

Review of complaints January 2018 to January 2019

Complaints submitted since January 2018

5. Nine complaints have been submitted to the Monitoring Officer since January 2018. Of those:
 - 2 complaints related to Town and Parish Councillors; and
 - 7 complaints related to Borough Councillors.

Complaints about Town and Parish Councillors

6. Of the two complaints submitted to the Monitoring Officer about Town and Parish Councillors since January 2018:
 - 1 was withdrawn by the complainant; and
 - 1 is a live complaint currently being informally investigated by the Monitoring Officer.

Complaints about Waverley Borough Councillors

7. Of the seven complaints submitted to the Monitoring Officer about Waverley Borough Councillors since January 2018:
 - 2 were with withdrawn by the complainants;
 - 4 were informally investigated by the Monitoring Officer and subsequently resolved informally; and
 - 1 is a live complaint currently being informally investigated by the Monitoring Officer.

Consultation with the Independent Person (IP)

8. 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.

9. I am required as Monitoring Officer to formally consult and consider the view of the Independent Person before deciding to commence a formal investigation. I have not been required to do so during the past 12 months as all new complaints have been withdrawn, resolved informally or are still live at the informal stage.

Common themes, features and learning points

10. 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, continued to be 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

11. 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, and residents, but where no complaint has been made.

12. A meeting of the Standards Panel will take place on 1 February 2019 to consider the independent investigation report into two complaints against a Waverley Borough Councillor submitted in April 2017. In line with the Council's arrangements for dealing with Standards Allegations against Councillors and co-opted Members under the Localism Act 2011, agenda papers will not be published in advance of the meeting and the usual rules in respect of exempt information (as defined by Section 100I of Section 100A(4) of the Local Government Act 1972 will apply.

Borough and Town and Parish elections– May 2019

12. Elections for the Borough council and for Waverley Town and Parish councils will take place on 2 May 2019. In signing their Acceptance of Office, councillors give an undertaking to observe the Code and the conduct that is expected of them in the performance of their role as a borough councillor. We will therefore ensure that all newly elected Borough councillors are provided with a copy of the Code of Conduct to read before signing their declaration, and recommend that Town and Parish Clerks do the same.
13. An Induction programme will be delivered to all new and returning Borough councillors. This will include dedicated sessions on Standards and the Code of Conduct, Member-Officer relationships, and Operating Safely as a Councillor, as well as sessions on councillors' roles in relation to Planning matters.
14. The Monitoring Officer Team will be offering similar training to Town and Parish Councillors.

Town and Parish representatives

15. The end of the previous Standards for England regime in 2012 removed the requirement for Council to have a Standards Committee. However, the Council did need to have arrangements in place to undertake hearings on complaints against a Member as part of a formal investigation. Waverley replaced its Standards Committee, including independent members and co-opted Town and Parish representatives, with the Standards Panel to provide a mechanism for establishing a hearing panel if one was required.
16. In recognition of the council's Monitoring Officer's role in investigating complaints against Town and Parish councillors, the Standards Panel membership included two co-opted Town and Parish councillors, at least one of whom would be on a hearing panel to consider a complaint against a Town or Parish councillor.
17. Following the May 2015 town and parish elections, two parish councillors were appointed to the Standards Panel following an invitation to all Town & Parish Councillors for nominations:
 - Joan Holroyd, Elstead Parish Council
 - Richard Jameson, Bramley Parish Council

18. Mr Jameson has since resigned from Bramley Parish Council. Following the May 2019 parish elections, nominations will be invited from the Town and Parish councils for two parish representatives. In the event of there being more than two nominations, a ballot is held with each parish council having up to two votes.

Gifts & Hospitality

19. As a result of a routine Internal Audit in 2018 of registrations of gifts and hospitality, it was recommended that action be taken to raise awareness among staff of the need to register any gifts or hospitality offered to them or received that exceeded £25 in value.
20. There is an on-line form available via the Staff Intranet, and the link to this has been made more obvious on the Intranet home page. In addition, all staff have been emailed to remind them of the need to register gifts or hospitality that exceed £25 in value.
21. In 2017/18, 30 registrations were made, mostly in relation to small gifts received that were less than £25 in value. In 2018/19 to date, there have been 14 registrations and these also have been mostly low value gifts of biscuits and chocolates that have been usually been shared among staff or offered to the Mayor's Christmas tombola.

Recommendation

That the Standards Committee 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:

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Monitoring Officer

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The Waverley Members' Code of Conduct

The Waverley Members' Code of Conduct was adopted by Council on 17 July 2012, and amended by Council on 18 October 2016.

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
 - 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.

- (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-

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

STANDARDS ARRANGEMENTS - APPOINTMENT OF INDEPENDENT PERSONS

[Wards Affected: All]

Summary and purpose:

Under the Localism Act 2011, the standards arrangements adopted by the Council are required to include provision for the appointment of at least one Independent Person. Waverley has appointed two Independent Persons, whose term of office ends in May 2019.

The Standards Committee is asked to consider the arrangements to recruit and appoint Independent Persons to take office from May 2019.

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:

Each Independent Person is able to claim travel/mileage expenses in connection with performing their duties, which is met from the Members' Allowances budget.

Legal Implications:

The legal implications are set out in the body of the report. It is necessary for full Council to approve the appointment of the Independent Person(s).

Introduction

1. Section 28(7) of the Localism Act 2011 requires the standards arrangements adopted by the Council to include provision for the appointment of at least one Independent Person, 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. The Member against which an allegation has been made can also consult them.

2. In connection with the implementation of the new Standards Arrangements from April 2012, Waverley worked with Guildford, Spelthorne and Mole Valley borough councils to recruit two Independent Persons. On 17 July 2012, Waverley's Council appointed Tony Allenby, Vivienne Cameron and Bernard Quorroll as Waverley's Independent Persons for an initial term to May 2013, which was subsequently extended to May 2015. On 17 February 2015, Council agreed to re-appoint Tony Allenby, Vivienne Cameron and Bernard Quorroll as Waverley's Independent Persons for a further term, to May 2019.
3. Waverley, along with the other councils that participated in the recruitment, has adopted an Independent Persons Protocol, attached at Annexe 1.
4. Section 28(8) of the Localism Act 2011 sets out the test of independence in the following terms:
 - (a) *a person is not independent if the person is—*
 - (i) *a member, co-opted member or officer of the authority,*
 - (ii) *a member, co-opted member or officer of a parish council of which the authority is the principal authority, or*
 - (iii) *a relative, or close friend, of a person within sub-paragraph (i) or (ii);*
 - (b) *a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—*
 - (i) *a member, co-opted member or officer of the authority, or*
 - (ii) *a member, co-opted member or officer of a parish council of which the authority is the principal authority;*
 - (c) *a person may not be appointed under the provision required by subsection (7) unless—*
 - (i) *the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,*
 - (ii) *the person has submitted an application to fill the vacancy to the authority,*
and
 - (iii) *the person's appointment has been approved by a majority of the members of the authority;*
 - (d) *a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.*

Recruitment of Independent Persons for 2019-2023

5. Waverley's Independent Persons were recruited as part of a joint recruitment exercise with Guildford, Spelthorne and Mole Valley councils to advertise, shortlist and interview candidates for the appointment of Independent Persons for each authority. The shortlisting and interviewing was conducted by a panel comprising the respective Monitoring Officers (or deputies) of the three participating councils. The panel made recommendations to each council in respect of the appointment of their respective IPs.
6. Following discussion between Surrey Democratic Services Managers and Monitoring Officers, there is agreement in principle to once again undertake a joint recruitment exercise on behalf of seven Surrey boroughs and districts: Guildford, Epsom & Ewell, Mole Valley, Reigate & Banstead, Spelthorne, Surrey Heath, and Waverley.

7. The intention is to appoint at least three Independent Persons, with any such person being available to act as an Independent Person for any of the councils, for a four-year term of office commencing May 2019 and expiring in May 2023. Serving Independent Persons are eligible for re-appointment.
8. The positions will be advertised on the websites of each of the participating councils at the end of January, with the deadline for written applications being 22 February 2019. Shortlisting will take place Monday 25 February and the Joint Appointments Panel will meet early in March to interview candidates if necessary, with the aim of submitting recommendations to each of the participating councils for confirmation of formal appointments in time for May 2019.

Conclusion

9. The joint approach to recruiting Independent Persons worked very well in 2012, and it is an effective and efficient way of councils filling statutory but very specialised roles. In order to meet the time scales of confirming the formal appointments before May 2019, bearing in mind that last Council meeting of the council year is on 19 March 2019, it is proposed that a delegated authority is sought from Council for the Monitoring Officer to confirm the appointment of at least three Independent Persons from May 2019, after consultation with the Chairman of the Standards Committee.

Recommendation

The Standards Committee is asked to:

- 1) agree the joint arrangements to advertise, shortlist and interview candidates for the appointment of Independent Persons from May 2019; and
- 2) recommend to Council that the Monitoring Officer be given delegated authority to confirm the appointment of at least three Independent Persons for a four-year term from May 2019, after consultation with the Chairman of the Standards Committee.

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:

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Monitoring Officer

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

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WAVERLEY BOROUGH COUNCIL INDEPENDENT PERSON PROTOCOL

Waverley Borough Council in conjunction with 3 other County authorities, namely Guildford Borough Council, Mole Valley District Council and Spelthorne Borough Council has appointed a pool of Independent Persons to be drawn from when required.

Any reference in this document to 'the Council', applies to each of the four Local Authorities. Any reference in this document to 'the Committee' applies to any Committee or Panel of the Council which may have responsibility for promoting the maintenance of high standards of conduct by councillors and any co-opted members of the Council. The four Councils follow a similar approach, but the committee structures vary between them according to each Council's Constitution and Arrangements.

This Protocol sets out the expected roles and responsibilities of an Independent Person (IP) when they are carrying out their function in assessing an allegation that a Member of the Council or Town and Parish Council has failed to comply with the appropriate Council's Code of Conduct for Members.

Principles

Appointment

1. Each Independent Person (IP) will initially be appointed until May 2015. In respect of Waverley Borough Council, only two of the three IPs have been appointed for 2012 – 2015.
2. Thereafter appointments will be made on the basis of a four year term, which reflects the ordinary term of office of a councillor, with serving IPs being eligible for re-appointment.

Role and Obligations

3. The role of the IP is a consultative position required under section 28 of the Localism Act 2011.
4. The purpose of the IP role is to assist the Council and Town and Parish Councils in promoting high standards of conduct by elected and co-opted members of the Council and in particular to uphold the Code of Conduct adopted by the Council and the seven principles of public office, namely selflessness, honesty, integrity, objectivity, accountability, openness and leadership.
5. The IP is expected to develop a sound understanding of the ethical framework as it operates within the Council.
6. The IP may be invited to attend or participate in training events organised or promoted by the Council.

7. The views of an IP must be sought by the Council before it takes a decision on whether an allegation may be investigated, and may be sought by the Council at any other stage (e.g. before a final hearing is arranged or where a local resolution may be appropriate), or by a Member against whom an allegation has been made.
8. The Council is expected to support the IP in his/her role by:
 - providing information on its processes and procedures
 - adhering to this Protocol
 - providing training which meets the needs of the IP
 - supporting the IP by dealing with press enquiries
 - providing advice if an IP is unsure of their role or conduct
 - paying reasonable travelling and subsistence expenses claimed by the IP for undertaking this role. (Such expenses must be claimed within three months of incurring them). The IP will receive no other remuneration.

Allocation of Independent Person

9. This Protocol covers all the IPs appointed by the authorities and any reference in this Protocol to an IP covers reference to all IPs.
10. The four authorities will endeavour to choose IPs from the pool on an even and fair basis, as far as possible. In order to assist this, each authority will inform the other authorities at the time an IP first becomes involved in a complaint.
11. The authorities will keep a log on Sharepoint and update it promptly when a new case arises.
12. Before approaching an IP, the Council will consider the number of complaint cases each IP has been allocated by all the Local Authorities using the pool.
13. An IP is not obliged to accept a request to be involved in a complaint, should they either have other commitments or have recently been involved in a complaint at one of the other authorities.
14. Where there is a link between any complaints made to the Council, the same IP will normally be approached if the MO feels it will assist the efficiency of the investigation.

Independent Person's Conduct

15. In carrying out the role, the IP will ensure that he/ she -
 - a. acts in accordance with -

- i. any relevant legislation or guidance and the Council's Code of Conduct in force at the time; and
- ii. the agreed processes/ procedures approved by the Panel and the Council's Constitution; and
- b. acts impartially at all times, without political bias or prejudice and in accordance with the rules of natural justice; and
- c. maintains confidentiality at all times.

The Standards Panel

- 16. The Monitoring Officer's (MO) role is to give advice to the Panel.

Involvement in hearings

- 17. The MO will brief the IP, either on the phone, face to face or by email, to provide the context of a complaint upon first contact.
- 18. The MO will consult the Independent Person for advice on action to take in accordance with the Council's hearing arrangements, which may include any of the following stages:
 - Upon receipt of a complaint, (either before referring the matter to any Assessment Panel with a recommendation as to whether it merits formal investigation or in consultation with the Chairman of the Committee to decide whether or not to investigate, depending on the individual authority's arrangements).
 - When the Monitoring Officer feels it is appropriate to resolve the complaint informally, without the need for a formal investigation.
 - Following a formal independent investigation, on the outcomes or recommendations of the Investigating Officer.
 - Where an Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct, on whether any form of local resolution is possible.
- 19. When the MO is deciding how to progress with a complaint, he/she should consult with the IP and should consider the following:
 - a. Was the Member/ co-optee acting in their official capacity at the time of the alleged misconduct?
 - b. Was the Member/ co-optee in office at the time of the alleged misconduct?
 - c. Can the complaint be considered as being of a very minor or trivial nature; or vexatious, frivolous or politically motivated?
 - d. Has the complaint been made within the appropriate time scales?
 - e. Is there a potential breach of the Council's Code of Conduct?
 - f. Is there public interest in the matter?
 - g. Is there sufficient information to enable him/her to make a decision?
If not, what information is required?
- 20. The MO will make a written record of any discussions that take place with the IP and send these to the IP for agreement.

21. The MO will provide a summary with any documents provided to the IP.
22. The MO will inform the IP at the earliest opportunity in the process of an investigation, of the Council's expectations with regards to the timescales for their responses during each stage.

Feedback and Learning

23. At the resolution of the complaint, whether there is a formal investigation or not, the MO will advise the IP of the outcome of the complaint.
24. The MO and IP may have a discussion on the lessons learnt, from both the hearings arrangements process and following this Protocol, whether any improvements are required.
25. The MOs and IPs will meet on an annual basis to review progress with the operation of the Protocol and deal with any training requirements.

Conflicts of Interest, Access to Contact details and Confidentiality

26. The IP should inform the MO if they feel there are circumstances which would suggest that they had a conflict of interest e.g. being a friend of either the complainant or Member concerned; or have previously been involved in the matter.
27. If the IP approached has a conflict of interest, another IP will be consulted.
28. A complainant will not be given the IP's contact details. In the unlikely event that the IP is contacted directly by a complainant, he/she should not respond to them and is expected to inform the MO immediately.
29. The subject member will not automatically be given the IP's contact details. Upon first contact, the MO will ask the IP how they wish to communicate with the subject member. Where the subject Member wishes to speak to the IP then the MO will try to facilitate this in a planned way between the IP and the Member.
30. The Council will not give out details of IPs to the Press or other enquirers.
31. In terms of confidentiality, the IP should not discuss any matters about a complaint, either past or present, with the media or any other third party without appropriate advice having been taken from the MO.

Methods of Contact

32. The IP is requested to provide the MO with appropriate methods of contact e.g. email and telephone numbers, and is expected to make themselves available at all reasonable times.
33. The IP will advise during initial discussions with the MO their preference for communications, whether in hard copy, by email, or both.
34. The IP is asked to inform the MO with as much reasonable notice as possible if they will not be contactable for any extended period once they have first become involved in an investigation, so that one of the other IPs can be advised that he/she would be required to stand-in as necessary during this period.

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

REVIEW OF MEMBER CODE OF CONDUCT

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

Waverley adopted a local *Members' Code of Conduct and Arrangements for dealing with complaints under the Code of Conduct* on 17 July 2012, in accordance with the requirements of the Localism Act 2011. The Code of Conduct, Arrangements for dealing with Complaints, and the Planning Code of Conduct, were reviewed in 2016, and revised versions agreed by Council on 18 October 2016.

This report proposes a number of additions to the Code of Conduct which provide additional clarification on the core principles of the Code, and address some procedural matters on which the Code is currently silent.

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

Confidence in high standards of conduct is a key part of understanding and responding to our residents' needs.

Financial Implications:

There are no budget implications, and the operation of the new Code has generally been accommodated within existing budgets over the last four financial years.

Legal Implications:

The Council is under a range of duties under the Localism Act and operating the Code and arrangements is a key part of discharging these duties. The Council can choose to amend its Code or arrangements when it considers appropriate.

Introduction

1. The Localism Act 2011 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.
2. The Members' Code of Conduct, Planning Code of Good Practice, and Arrangements for dealing with complaint about Members were adopted in July 2012 and subsequently revised in October 2016, the revisions reflecting and providing

clarification on issues that had arisen through complaints submitted to the Monitoring Officer.

3. The Monitoring Officer team has considered the Code of Conduct in the light of recent complaints, and requests for advice; information from other local authorities; and also as part of the preparations for induction and training of councillors after the May 2019 elections. As a result of these considerations, it is suggested that there are a number of matters where more clarification could be provided to councillors in relation to the code of conduct.

Recommended changes

4. Annexe 1 sets out the text of the existing Code of Conduct with all suggested amendments highlighted in red. The following tables summarise the key changes that have been put forward and why.

Table 1 – Suggested Amendments to Waverley Code of Conduct

Where	What	Why
<i>Paragraph 1 (1)</i>	<i>Includes explicit reference to Members being bound by the Code when using email and social media platforms.</i>	<i>For the avoidance of any doubt, and recognising the increased use of email and social media such as Facebook or Twitter to engage with residents.</i>
<i>Paragraph 1 (3)</i>	<i>Clarifies the detail of the Nolan principles.</i>	<i>For the avoidance of doubt.</i>
<i>Paragraph 1 (5)</i>	<i>Clarification of definition of terms used in the Code.</i>	<i>For the avoidance of doubt.</i>
<i>Paragraph 1 (7)</i>	<i>Clarification that allegations of a breach of the Code will be dealt with in accordance of the agreed Arrangements.</i>	<i>In the interests of transparency. To make explicit what is already referred to by cross-references between this code and the Arrangements for dealing with complaints against a councillor or co-opted Member.</i>
<i>Paragraph 2 (2)</i>	<i>Specifically addresses the need to observe protected characteristics under the equality enactments.</i>	<i>For the avoidance of doubt.</i>
<i>Paragraph 2 (8)</i>	<i>Specific cross reference to the Planning Code of Best Practice and Member/Officer Protocol</i>	<i>For the avoidance of doubt.</i>

<i>Paragraph 5 (1)</i>	<i>Clarification that Members must not participate in any decision where they may be seen as having a conflict of interests.</i>	<i>To promote public transparency. To support the Monitoring Officer in providing advice to members on the implications of their interests.</i>
<i>Paragraph 5 (6)</i>	<i>Clarification of the arrangements in relation to public disclosure of sensitive information as part of a Member's register of interests.</i>	<i>For the avoidance of doubt that this facility is available in exceptional circumstances.</i>
<i>Paragraph 5 (7)</i>	<i>Clarification that entries on the register of interests will be removed once the Monitoring Officer is advised that the Member no longer has the interest, or they cease to be an elected councillor or co-opted Member.</i>	<i>For the avoidance of doubt.</i>
<i>Paragraph 7</i>	<i>Clarificaton that elected councillors may participate in Council business in respect of housing (even if they are a Council tenant), agreeing the Members Allowances Scheme, setting the council tax pre-cept.</i>	<i>For the avoidance of doubt.</i>
<i>Paragraph 9</i>	<i>New! The Code is currently silent on the arrangements for considering and granting requests for dispensations. This paragraph confirms that the Monitoring Officer will consider requests and may grant dispensations that fall with the</i>	<i>For the avoidance of doubt (this was part of the agreement of the new Standards Arrangements by Council on 17 July 2012, but not explicitly referred to in the Code of Conduct).</i>

Recommendation

It is recommended that the Standards Committee considers the proposed amendments to the Members Code of Conduct and recommends to Council that these be adopted.

Background Papers

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

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The Waverley Members' Code of Conduct

The Waverley Members' Code of Conduct was adopted by Council on 17 July 2012, and amended by Council on 18 October 2016.

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, **including the use of email, text, websites, or social media platforms.**
- (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) **Waverley is under a duty to promote and maintain high standards of conduct by Members.** 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:
 - (a) **Selflessness.** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
 - (b) **Integrity.** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.
 - (c) **Objectivity.** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
 - (d) **Accountability.** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
 - (e) **Openness.** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
 - (f) **Honesty.** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
 - (g) **Leadership** Holders of public office should promote and support these principles by leadership and example.

~~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:

(i) “Member” includes **elected councillors**, and co-opted or appointed members ~~and an appointed member~~.

(ii) A “Disclosable Pecuniary Interest” is an interest within the prescribed descriptions set out in Annexe 1 that you have personally, or that is an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners, and you are aware that that person has the interest.

(ii) “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~~, working groups, panels or Boards.

~~“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.

(7) A failure of a Member to comply with this Code of Conduct will be dealt with in accordance with the Arrangements approved by the Council under which allegations of such failure can be investigated and decisions on such allegations be made. Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may result in a criminal conviction and a fine of up to £5,000 and/or disqualification from office for a period of up to five years.

General Obligations

2. (1) **You must** always treat **others** ~~member colleagues, officers, other organisations and members of the public~~ with respect.
- (2) **You must not do** anything which may cause the Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2010).
- (3) **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.

- (4) **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.

- (5) **You must not** prevent another person from gaining access to information to which that person is entitled by law.
- (6) **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.
- (7) **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.
- (8) **In addition to compliance with this Member Code of Conduct, you are required to comply with the following codes:**
- (i) **Planning Code of Best Practice**
 - (ii) **Member/Officer Protocol**

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) **As a Member of the Council you must** avoid participating in any decision where you could reasonably be seen as having an interest which compromises your honesty or objectivity. Equally, you should avoid any action which might reasonably lead others to conclude that you were not acting selflessly or with integrity. In order to assist with this and promote openness and accountability, the Monitoring Officer must, by law, establish and maintain a register of interests, open for inspection by the public at the Council's offices and publicly accessible on the Council's website.
- (2) **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.
- (3) **Do** similarly notify the Monitoring Officer of any Disclosable Pecuniary Interest 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.
- (4) **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.

- (5) **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.
- (6) **Sensitive Information** Where a councillor or co-opted member of the council has an interest (whether or not a Disclosable Pecuniary Interest) and the nature of the interest is such that the councillor or co-opted member, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the councillor or co-opted member (or a person connected with that councillor or co-opted member) being subject to violence or intimidation:
- (a) if the interest is entered in the Register of Interests, copies of the register that are made available for inspection, and any version of the Register published on the Council's website, must not include details of the interest (but may state that the councillor or co-opted member has an interest the details of which are withheld under this provision of the Code).
 - (b) where a disclosable pecuniary interest is not entered on the Register of Interests and would otherwise require disclosure at a meeting, the councillor or co-opted member shall be entitled to merely disclose at the meeting the fact that they have such an interest in the matter concerned.
- (7) **Removal of entries in the register** An entry in the register of interests will be removed once the person concerned no longer has the interest or is neither a councillor nor a co-opted Member of the council (other than transitorily on re-election or re-appointment).

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.

7. **You may** participate in any business of the Council where that business relates to the Council's functions in respect of:
 - (a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (b) an allowance, payment or indemnity given to councillors or co-opted members;
 - (c) any ceremonial honour given to councillors; and
 - (d) setting council tax or a precept under the Local Government Finance Act 1992.

Decision-making and Predetermination

8. (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.

Dispensations

9. (1) A councillor or co-opted member with a disclosable pecuniary interest in a matter may submit a written request to the Monitoring Officer for the grant to a dispensation allowing that councillor or co-opted member to participate in any discussion and/or vote on that matter at a meeting.
- (2) The Monitoring Officer may, after having had regard to all relevant circumstances, grant a dispensation allowing that councillor or co-opted member only if they consider that without the dispensation:
 - (a) the number of persons prohibited from participating in any particular business in relation to the matter would be so great a proportion of the body transacting the business as to impede the transaction of that business, or
 - (b) each member of the Executive would be prohibited from participating in any particular business to be transacted by the Executive in relation to the matter.
 - (c) the representation of different political groups on the body transacting the particular business would be so upset as to alter the likely outcome of any vote relating to that business, or
 - (d) granting the dispensation is in the interests of persons living in the borough, or
 - (e) it is otherwise appropriate to grant the dispensation.
- (3) Any dispensation granted must specify the period for which it has effect, and the period specified may not exceed four years.

ANNEXE 1 – 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.

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Article 9 – The Standards ~~Committee Panel~~

9.1 Standards ~~Committee Panel~~

The Council will determine the composition of and the role and function of the Standards ~~Committee Panel~~. The Standards Committee falls within the requirements of the Local Government and Housing Act 1989 for membership to be proportionate to the political composition of the Council.

9.2 Composition

- (a) **Membership.** The Standards ~~Panel Committee~~ will be composed of:
- i. nine councillors [other than the ~~L~~leader, and with a maximum of one member from the Executive]
 - ii. two members of a Town or Parish Council in the Council's area who cannot also be a District Councillor, to be appointed until the next full Town and Parish Council elections.
- (b) **Town and Parish members.** At least one 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. Town and Parish members will not attend meetings which are considering the Council's constitution. ~~;~~ ~~and~~
- (c) **Chairing the ~~Panel Committee~~.** The Chairman of the ~~Committee Panel~~ shall be appointed by Council. A member of the Executive may not chair the ~~Committee Panel~~.

9.3 Role and Function

The Standards ~~Committee 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. ~~;~~
- (f) Where the Monitoring Officer decides a hearing is necessary, to establish a Panel to hear and determine -complaints received concerning the

conduct of Waverley Borough members. ~~and determination as appropriate;~~

- (g) the exercise of (a) to (f) above in relation to the town and parish councils in Waverley Borough and the members of those town and parish councils;
- (h) in the event of a dispute arising from a breach of the Council's Local Protocols, the Standards ~~Committee Panel~~ should use the same processes as breaches of the Code;
- (i) ~~Appointment of a Panel: 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 determination of complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council. The Panels will have the power to determine complaints where these have been referred by the Monitoring Officer; and~~
- (j) To agree arrangements for the selection and interviewing of candidates for appointment as Independent Person(s) (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments.
- (k) To agree allowances and expenses for the Independent Person(s).
- (l) To implement, monitor and review the operation of the Independent Person(s) Protocol.
- (l) To implement, monitor and review the operation of the code of conduct for staff.
- (..) To implement, monitor and review the operation of the Monitoring Officer Protocol.
- (m) To implement, monitor and review the operation of the Protocol on Member/Officer Relations.
- (jn) To Review and propose revisions to the Constitution as set out in [Article 15](#).
- (o) To consider any other matter referred by the Monitoring Officer.

9.4 Appointment of a Panel

The Monitoring Officer in consultation with the Chairman of the Standards Committee will appoint a Panel of no less than 3 members of the Committee for the purpose of hearing and determining complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council.

A Panel established to hear a complaint against a Town or Parish Councillor must include at least one of the appointed Town and Parish Council members.

The Panels will have the power to determine complaints where these have been referred to it by by the Monitoring Officer.

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WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

SCHEME OF DELEGATION – REVIEW

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

The Scheme of Delegation to Officers was comprehensively reviewed and revised in 2017. Officers have been asked to propose revisions to the Scheme of Delegation, based on their experience of using the Scheme over the past 12 months.

The Standards Committee is asked to consider the proposed amendments and make recommendations to Council to approve the revised Scheme of Delegation.

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

The Council's ability to make day-to-day decisions through its Scheme of Delegation is key to operating efficiently and effectively for Waverley customers.

Equality and Diversity Implications:

There are no equality and diversity implications.

Financial Implications:

There are no direct finance implications arising from the report.

Legal Implications:

In order to function effectively, the Council (as a 'creature of statute') must ensure that its statutory powers and functions are effectively delegated down through its Executive and Committee structure and to officers, with functions and responsibilities lying at the appropriate level of delegation. It is unlawful for officers to act without correctly delegated powers. Therefore any failure to have in place an appropriate and accurate scheme of delegation means that any actions relating to undelegated or improperly delegated matters must be approved by the full Council. Such a situation is entirely impractical. Further, where action is taken and appropriate delegations are not in place, the Council could incur substantial legal costs.

Background

1. The Scheme of Delegation to Officers of Council and Executive responsibilities enable the Council to operate on a day to day basis, without recourse to Council and its committees for routine decision-making.

2. Waverley adopted a new Scheme of Delegation to Officers on 4 April 2017, based on the principles that the scheme should:
 - Be shorter
 - Be simpler
 - Be easier to understand
 - Facilitate quicker decision-making
 - More easily accommodate future national legislative and local policy changes without necessarily requiring additional specific delegations
 - Increase the quality, integrity, accountability, and transparency of the Council's democratic processes
 - Be endorsed by both Officers and Councillors

3. Since its adoption, there have only been relatively minor revisions to the Scheme, which demonstrates that it is meeting day to day operational requirements.

Review

4. As part of an annual review, Officers have been asked to put forward any revisions to the Scheme that they have identified which would assist operational decision-making. The changes proposed are shown as tracked changes in the Draft Version 5 of the Scheme attached at Annexe 1, and are explained below:

General Principles	
2.2, 2.3, 3.5, and 4.3	Explicit confirmation that any Strategic Director may exercise the powers granted to the Chief Executive, either at the request of, or in the absence of, the Chief Executive.
Schedule of Authorisations	
5.1	The Chief Executive or any Strategic Director is authorised to issue Instruments of Appointment to the Head of Environmental Services ...
The Monitoring Officer	
4A (<i>New!</i>)	To consider and determine requests for dispensations under Section 33 of the Localism Act 2011, to clarify that the Monitoring Officer is the proper officer of the authority for this purpose.
The Section 151 Officer	
8A (<i>New!</i>)	To approve the adoption of new or revised fees and charges, after consultation with the Portfolio Holder for Finance, to enable the Council to adopt new fees and charges during the year without delay caused by submission to a Full Council meeting for approval. Full Council will continue to approve the complete schedule of fees and charges as part of the Annual Budget approval.
Head of Customer and Corporate Services	
17. (<i>Additional wording</i>)	Qualification of the reversion of powers to the Executive, so that delegated powers may be used to grant or renew leases for

	more than 25 years, where a qualifying application under the Leasehold Reform Act 1967 is received, and the Council has no option other than to grant the application.
Head of Environmental Services	
18.3	Updating of relevant licensing legislation.
Head of Policy & Governance	
52D (<i>New!</i>)	In cases of prolonged illness or other unavoidable absence, the Head of Policy & Governance would be able to grant a continuing leave of absence to a councillor, to avoid a councillor being disqualified under s.85 of the Local Government Act 1972.
The Borough Solicitor	
77. Revised wording	Under the Data Protection Act 2018, there is no longer an automatic fee for Subject Access Requests, and we are only able to charge where a request is manifestly unfounded or excessive. The revised wording reflects the requirements of the new Act.

Conclusion

The revisions proposed are relatively minor, and do not remove any significant authority from Councillors.

Recommendation

It is recommended that the Standards Committee endorses the proposed revisions to the Scheme of Delegation, and recommends that Version 5 of the Scheme of Delegation be approved by Council.

Background Papers

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

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WAVERLEY BOROUGH COUNCIL

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 Any Strategic Director may exercise the powers granted to The Chief Executive (including in his capacity as Head of Paid Service, Returning Officer, Electoral Registration Officer) by this scheme. This can be at the Chief Executive's request or at the Strategic Director's discretion in cases where the Chief Executive is absent or unavailable. ~~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 or any Strategic Director reporting to the Chief Executive may exercise the ANY of the delegated powers contained within this scheme ~~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, 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 [or relevant Strategic Director](#) 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.

[4.3 As per paragraph 2.2, any Strategic Director may act on the Chief Executive's behalf in respect of authorising urgent actions either at the Chief Executive's request or if the Chief Executive is absent or unavailable.](#)

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 [or any Strategic Director](#) 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, 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.	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), and (d), below which are reserved to Full Council: (a) the appointment of the Chief Executive or Strategic Directors and the statutory posts; (b) the adoption of the annual Pay Policy Statement; (c) the approval of and amendments to the Pension Policy Statement; (d) the settlement of any staff pay award.	Non-executive

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	Other local authorities in Surrey.	Non-executive

	Parish Council elections.		
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
<u>4A</u>	<u>To consider and determine requests for dispensations under Section 33 of the Localism Act 2011.</u>	<u>Non-executive</u>
5.	To appoint members to the Hearing Panel Sub-Committee from the membership of the Standards Panel Committee.	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.	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.	To include properties in the List of Assets of Community Value, and make decisions in relation to claims for compensation.	Executive
<u>8A</u>	<u>To approve the adoption of new or revised fees and charges, after consultation with the Portfolio Holder for Finance.</u>	<u>Non-executive</u>

CHIEF EXECUTIVE

Meetings, Members and the Constitution

	Authority	After Consultation with	Function
9.	LEFT BLANK ^[c1] (UNUSED)		

	Authority	Function
10.	To hear and determine appeals relating to applications to include properties in the List of Assets of Community Value.	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 any supplier 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.	<p>To undertake all actions in relation to the administration of the Council's estate and property portfolio, and its interests in land or property,</p> <p>except the following matters which are reserved to the Executive:</p> <p>(a) Acquisitions or disposal of land or property, and interests in land or property, with a value in excess of £250,000;</p> <p>(b) the grant or renewal of all leases in excess of 25 years, <u>other than qualifying applications made under the Leasehold Reform Act 1967 to extend the lease or acquire the freehold where the price reflects the independent valuation and all costs are met by the applicant.</u></p>	Executive

HEAD OF ENVIRONMENTAL SERVICES

18.1	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
18.2	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 (b) reviews undertaken of existing licences.	The appropriate ward councillors.	Non-executive

Licensing

	Authority	Function
18.3	<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 Regulatory Reform Act 2001 (ii) Licensing Act 2003 (iii) Gambling Act 2005 (iv) the Public Health Acts 1875, 1936 and 1961 (as amended) (v) the Pet Animals Act 1951 (as amended) (vi) Public Health (Control of Disease) Act 1984 (vii) Animal Boarding Establishments Act 1963 (viii) Riding Establishments Acts 1964 and 1970 (vix) Dangerous Wild Animals Act 1976 (viii) the Local Government (Miscellaneous Provisions) Acts 1976 and 1982 (as amended), (xi) 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 (xiii) the Scrap Metal Dealers Act 2013 (xiv) Sunday Trading Act 1994 (xii) Town Police Clauses Act 1847 and 1889 (xiii) Guard Dogs Act 1975</p>	Non-executive

- (xiv~~ii~~) Animal Health Act 1981
- (xv~~iii~~) Animal Health and Welfare Act 1984
- (xvi~~x~~) Control of Dogs Order 1992
- (xvii) Animal Welfare Act 2006
- (xviii) The Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018
- (xix) Zoo Licensing Act 1981

including but not limited to the following:

- A. Personal, premises, club premises licences and Temporary Event Notices*
- 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)*
- C. House to house and street collections*
- D. Club gaming/club machine permits and small society lotteries*
- E. Sexual Entertainment Venues*
- F. Street trading*
- G. Scrap metal dealers*
- H. Animal boarding establishments, riding establishments, dog breeders, pet shops and dangerous wild animals*
- I. Game dealers*
- J. Tattooing, acupuncture, ear piercing, cosmetic piercing and electrolysis*
- K. Sunday trading*

except for

- (a) approval of and amendments to the Statement of Licensing Policy and the Gambling Policy which are reserved to Council;
- (b) approval and amendments to policies relating to functions under the Acts set out above which is reserved to the Licensing and Regulatory Committee;
- (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;
- (d) the designation of and amendments to hackney carriage vehicle ranks which is reserved to the Licensing and Regulatory Committee;
- (e) the power to make an Order identifying a place

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

Environmental Protection

	Authority	Function
21.	<p>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:</p> <p>(i) the Control of Pollution Act 1974 (as amended)</p> <p>(ii) the Environmental Protection Act 1990</p> <p>(iii) Dangerous Dogs Act 1991</p> <p>(iv) Noise & Statutory Nuisance Act 1993</p> <p>(v) the Environment Act 1995</p> <p>(vi) the Noise Act 1996</p> <p>(vii) the Dog (Fouling of Land) Act 1996</p> <p>(viii) The Anti-Social Behaviour Crime and Policing Act 2014 and Anti-Social Behaviour Act 2003</p> <p>(ix) Clean Neighbourhoods and Environment Act 2005</p>	Executive

<p>(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 (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.	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	Executive

	<p>the Council's environmental health functions:</p> <ul style="list-style-type: none"> (i) the Local Government Act 1972 (ii) the Local Government (Miscellaneous 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>including but not limited to the following:</p> <ul style="list-style-type: none"> <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> 	
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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> <ul style="list-style-type: none"> (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 	Non-executive/Executive

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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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Closure of Streets

	Authority	Function
27.1	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 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 determine applications for Discretionary Rate Relief and Discretionary Council Tax Reduction in accordance with the adopted policy criteria and with discretion to grant applications which can be funded from within the approved budget.	Executive
35.	To execute warrants of arrest for Council Tax and Non-Domestic Rate debts	Executive

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 (ii) Local Government and Housing Act 1985 (iii) Local Government (Miscellaneous Provisions) Acts 1976 and 1982 (iv) Housing Act 1996 (v) Children Act 1989 (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 (vii) Housing Act 2004 (viii) Anti-Social Behaviour, Crime and Policing Act 2014 (ix) Clean Neighbourhoods and Environment Act 2005 (x) Leasehold Reform, Housing and Urban Development Act 1993 (xi) Leasehold Reform Act 1967 (xii) Housing and Planning Act 2016 (xiii) Homelessness Act 2002 (xiv) Housing, Grants, Construction and Regeneration Act 1996 (xv) Prevention of Damage by Pests Act 1949 (xvi) Public Health Acts 1936 and 1961 (xvii) Caravan Sites and Control of Development Act 1960 (xviii) Environmental Protection Act 1990 (xix) Caravan Sites Act 1968 and Mobile Homes Act 2013 (xx) Protection from Eviction Act 1977 (xxi) Criminal Law Act 1977 (xxii) Building Act 1984 (xxiii) Energy Act 2013 	Non-Executive/Executive

	(xxiv) Energy Act 2011	
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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 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 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 (iv) Environment Act 1995 (v) Environmental Protection Act 1990	Non-Executive/Executive

	<ul style="list-style-type: none"> (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 (xxi) Building Act 1984 (xxii) Self-build and Custom Housebuilding Act 2015 (xxiii) Neighbourhood Planning Act 2017 (xxiv) Anti-Social Behaviour Act 2003 	
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;</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 Environmental Impact Assessment and/or a Strategic Environmental Assessment;</p> <p>(E) to take direct action/seek injunctions in relation to breaches of planning control, remove unauthorised signage/advertisements and remedying the condition of land;</p> <p>(F) to serve, amend, vary, withdraw, revoke any notices, permissions, certificates (as appropriate)</p>	Non-executive

(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);

(G) the making and/or adoption of any plan for the purposes of neighbourhood planning

except:

(a) planning applications that must be referred to the Joint Planning Committee in accordance with Part 3 of the Constitution and as set out below:-

(a.1) To review all housing schemes which propose a net increase of more than 25 dwellings, where the recommendation is for permission to be granted

(a.2) To consider applications defined as major, as defined by the Government (10 or more units of residential accommodation, more than 1,000 sqm commercial floorspace and site area of more than 1 hectare)

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

- i. have a significant planning impact beyond the Area in which they are situated, and/or
- ii. are of strategic importance, and/or
- iii. involve new planning issues for the Borough; or

(a.3) where within three weeks of the application appearing on the Waverley weekly list of planning applications, the Chairman and Vice-Chairman of the relevant Area Planning Committee and the ward member request that it be referred to the Joint Planning Committee and put forward relevant grounds as set out in c (i) to (iii) above, the Chief Executive and Head of Planning will normally submit the application to the Joint Planning Committee;

(b) any planning application where, within three

	<p>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), which may or may not be 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><i>(For (b) above)</i> Where the three-week call-in period has expired, but the Head of Planning is satisfied that there is sufficient justification on planning grounds and the application has not been determined, they may, after consultation with the Chairman of the relevant Committee, arrange for that application to be referred to the Committee;</p> <p>(c) 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>(d) any planning application where an objection from a statutory consultee remains unresolved and the officer’s recommendation is to approve the application;</p> <p>(e) any planning application where the Council is the applicant;</p> <p>(f) any planning application which is required to be referred to the Secretary of State;</p> <p>(g) planning applications, where by the time of the expiry of the 21 day consultation period, have received 5 or more letters of objection or 5 or more letters of support (but not a combination of both) shall only be determined under delegated powers after the Head of Planning (or any officer nominated by them) has received written confirmation from the relevant ward members(s) that they do not wish the matter to be determined by the relevant Planning Committee.</p>	
44.	To take action, make decisions (including determining applications for works to protected trees and prior notifications of the intention to carry	Non-executive

	<p>out works to trees in conservation areas), 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>	
45.	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.	Non-executive

Licensing

	Authority	Function
46.	<p>Under the Licensing Act 2003:</p> <p>(a) to respond to the Licensing Authority in connection with consultations on applications on behalf of the local planning authority;</p> <p>(b) to apply for a review of a premises licence or a club premises certificate.</p>	Non-executive

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 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
52A.	To appoint members to the Independent Remuneration Panel.	Party Group Leaders. All decisions to be reported to all Members by email.	Non-executive
52B.	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
52C.	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
<u>52 D</u>	<u>To grant a continuing leave of absence to a councillor in relation to the Local Government Act 1972 s 85, in consultation with the group leaders. All decisions to be reported to all Members.</u>	<u>The party group leaders</u>	<u>Non-executive</u>

Communications and PR

	Authority	Function
55.	To make all day to day management decisions relating to the Council's functions as they relate to communications and public relations.	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> <ul style="list-style-type: none"> (i) Housing Act 1985 (ii) Local Government (Miscellaneous Provisions) Acts 1976 and 1982 (iii) Local Government and Housing Act 1985 (iv) Housing Act 1996 (v) Children Act 1989 (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 (vii) Housing Act 2004 (viii) Anti-Social Behaviour, Crime and Policing Act 2014 (ix) Clean Neighbourhoods and Environment Act 2005 (x) Leasehold Reform, Housing and Urban Development Act 1993 (xi) Leasehold Reform Act 1967 (xii) Housing and Planning Act 2016 (xiii) Homelessness Act 2002 (xiv) Housing, Grants, Construction and Regeneration Act 1996 (xv) Prevention of Damage by Pests Act 1949 (xvi) Public Health Acts 1936 and 1961 (xvii) Caravan Sites and Control of Development Act 1960 (xviii) Environmental Protection Act 1990 (xix) Public Health (Control of Disease) Act 1984 (xx) Caravan Sites Act 1968 and Mobile Homes Act 2013 (xxi) Protection from Eviction Act 1977 (xxii) Criminal Law Act 1977 (xxiii) Building Act 1984 (xxiv) Energy Act 2013 (xxv) Energy Act 2011 	Non-Executive/Executive

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
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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
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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. <u>To authorise the charging of a fee in respect of any manifestly unfounded or excessive Subject Access Request under the Data Protection Act 2018/General Data Protection Regulation</u>	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

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

21 JANUARY 2019

Title:

ELECTED MEMBER ACCESS TO INFORMATION

[Portfolio Holder: Cllr Julia Potts]

[Wards Affected: All]

Summary and purpose:

In June 2018 the Chief Executive, Monitoring Officer and Borough Solicitor met with the Leader and Deputy Leader and a number of other councillors to discuss whether or not the Council needed a separate protocol or advice note clarifying Waverley Elected Members' rights to access information.

It was agreed that this matter should be put to the Standards Committee for their consideration.

This report accordingly sets out a draft guidance and protocol note in respect of Elected Members' access to information at Waverley Borough Council.

The Standards Committee is asked to consider whether any such document is needed and, if so, to consider putting forward, subject to any changes it wishes to make, the attached draft document to Council for approval.

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

The Council's Corporate Strategy makes commitments to

- Being 'open in our decision-making to create a culture of trust and confidence';
- 'cutting bureaucracy and unnecessary process and minimising waste'; and
- 'reviewing regularly how we run our services and structures.'

The committee needs to consider whether the adoption of a new protocol would make the Council more or less democratic and efficient.

Equality and Diversity Implications:

None

Financial Implications:

None

Legal Implications:

The Council's 'Access to Information Procedure Rules', contained within part 4 of the Waverley Borough Council Constitution set out the rights elected members and members

of the public have to accessing information held by the Council. General obligations 3 and 4 of the Council's Elected Member Code of Conduct sets out the obligations members must adhere to in respect of maintaining the confidentiality of confidential information given to them and allowing access by others to information they are allowed to see. The aim of this guidance note is to provide additional guidance and detail on the principles of elected member access to information to ensure members understand their rights and responsibilities set out within the constitution and code of conduct. It should be read in conjunction with both documents.

Recommendation

It is recommended that the Standards Committee considers whether a new guidance and protocol on Elected Member access to information at Waverley Borough Council is needed and, if so, to consider putting forward, subject to any changes it wishes to make, the attached draft document to Council for approval.

Background Papers

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

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Waverley Borough Council

Elected Member access to information – guidance and protocol

Introduction and purpose of this document

1. The Council's 'Access to Information Procedure Rules', contained within part 4 of the Waverley Borough Council Constitution set out the rights elected members and members of the public have to accessing information held by the Council. General obligations 3 and 4 of the Council's Elected Member Code of Conduct sets out the obligations members must adhere to in respect of maintaining the confidentiality of confidential information given to them and allowing access by others to information they are allowed to see. The aim of this guidance note is to provide additional guidance and detail on the principles of elected member access to information to ensure members understand their rights and responsibilities set out within the constitution and code of conduct. It should be read in conjunction with both documents.

Guiding principles

2. Elected Members have a right to see the majority of information which the Council holds so they can carry out their duties as elected Members. The general rule is that where Elected Members need access to information in order to perform their duties they will be provided with it unless there is a good reason for them not to be provided with it. Usually information will be provided proactively by officers in advance of asking members to make a decision – often within committee papers. On occasion, members may ask to see information that has not already been provided to them by officers. In either case, officers have a duty to ensure members are provided with any information that members need to see in order to fulfil their duties unless there is a good reason not to provide it. Where the information is not provided, officers will advise elected members why this is the case.

Rights of access

3. Members have a right to see documents, or parts of documents, where this is reasonably necessary to enable them to perform their duties as a Councillor or their role within the Council. This is commonly referred to as the 'need to know' principle. This covers cases where a councillor seeks to see information which relates to a committee of which he/she is a member.
4. This does not amount to an automatic right to see any documents under any circumstances. Councillors do not have a right to a 'roving commission' to examine any document held by an organisation and the access to information rules would not apply where a member is seeking access to information either on a speculative basis or for any improper purpose or purpose not related to their duties as a councillor.

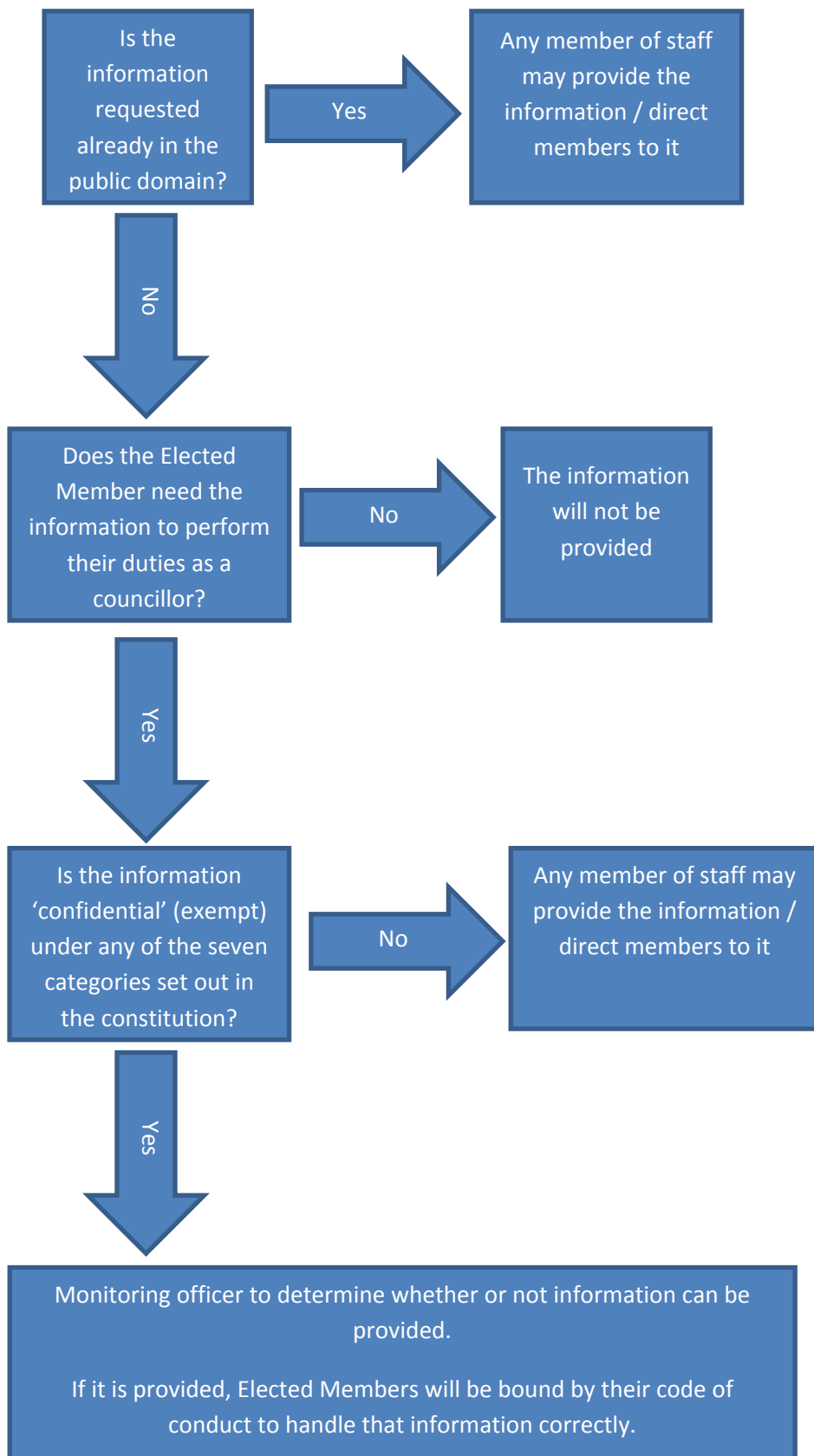
Exempt information and member obligations

5. The Council's constitution sets out specific types of information which need to be kept confidential ('exempt'). The seven classifications of exempt information are set out within the Constitution. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Confidential papers within agenda packs are coloured pink and clearly marked as being confidential and are not made available to the general public.
6. Under the 'need to know' principle, Elected Members can be given access (either at officer request or in response to a member request for information) to confidential information to allow them to perform their duties. However, as set out within the member code of conduct, where members have access to information which they know is confidential, they believe to be confidential or ought reasonably to be aware is confidential, they are bound not to disclose it unless under those explicitly circumstances set out within the code of conduct.

Rights under the Freedom of Information Act 2000

7. Members have the same rights as any other member of the public to request information under the FOIA. Any such request should be dealt with under the Council's procedure for FOI requests.
8. It should be noted that a political group is not part of the Council and therefore the Freedom of Information Act does not apply to it.

PROCESS: How will requests for information not proactively provided by officers be dealt with?



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