

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

When calling please ask for:

Fiona Cameron, Democratic Services  
Manager & Deputy Monitoring Officer

**Policy and Governance**

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Direct line: 01483 523226

Date: 1 March 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: TUESDAY, 12 MARCH 2019

TIME: 4.00 PM

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

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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### **NOTE FOR MEMBERS**

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

### **AGENDA**

1. **MINUTES**

To confirm the Minutes of the meeting which took place on 21 January 2019 (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 5pm on Tuesday 5 March 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 5pm on Tuesday 5 March 2019.

## **MONITORING OFFICER MATTERS**

### 6. APPOINTMENT OF INDEPENDENT PERSONS - UPDATE

At its meeting on 21 January 2019, the Committee agreed to the proposed joint arrangements to advertise, shortlist and interview candidates for the appointment of Independent Persons from May 2019.

Waverley is participating in a joint recruitment process with Guildford, Epsom & Ewell, Mole Valley, Reigate & Banstead, Spelthorne and Surrey Heath, with the aim of appointing at least three Independent Persons for a four-year term of office commencing May 2019, with any of the appointed Independent Persons being available to act for any of the councils.

The Monitoring Officer will give verbal update on the recruitment process at the meeting. Subject to the satisfactory conclusion of interviews in the week commencing 4 March 2019, it may be possible to make a recommendation to the Committee on the appointment of Independent Persons, for consideration and recommendation to Council.

### 7. MEMBERS' CODE OF CONDUCT (Pages 5 - 38)

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**

### 8. REVIEW OF SCHEME OF DELEGATION (Pages 39 - 74)

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.**

### 9. 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 & Deputy Monitoring  
Officer, on 01483 523226 or by email at  
fiona.cameron@waverley.gov.uk**

**WAVERLEY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**12 MARCH 2019**

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**Title:**

**REVIEW OF MEMBER CODE OF CONDUCT**

**[Portfolio Holder: Cllr Julia Potts]  
[Wards Affected: All]**

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**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.

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**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.

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**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 Committee reviewed the proposed changes at its meeting in January 2019, and in principle was content with the changes but asked for further revisions to the wording on:
  - new paragraph 1 (7) - to be split into two paragraphs, to separate out the two elements of the statement.
  - new paragraph 5 (6) – the wording in relation to dealing with including sensitive information on the Register of Interests to be simplified and made clearer.
  - new paragraph 7 – to be made clearer that the intention of this paragraph is to give a standing dispensation to Members to participate in certain business of the Council from which they might otherwise be excluded through having a Disclosable Pecuniary Interest, as set out in Paragraph 5 (1).
5. The following table summarises the key changes that have been put forward and why, with the revisions requested shown in bold.

#### 5.1 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>New! 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</i>

		<i>or co-opted Member.</i>
<b>Paragraph 1 (8)</b>	<b><i>New! Clarification of the legal sanctions that may arise from failure to register a Disclosable Pecuniary Interest in accordance with the Localism Act.</i></b>	<b><i>In the interests of transparency. To make explicit the ramifications of failing to register a Disclosable Pecuniary Interest.</i></b>
<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>
<b>Paragraph 5 (6)</b>	<b><i>Clarification of the arrangements in relation to public disclosure of sensitive information as part of a Member's register of interests.</i></b>	<b><i>For the avoidance of doubt that this facility is available in exceptional circumstances.</i></b>  <b><i>Wording has been simplified with deletions shown as tracked changes.</i></b>
<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>
<b>Paragraph 7</b>	<b><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></b>	<b><i>For the avoidance of doubt.</i></b>  <b><i>See the background set out in paragraphs 5.2-5.9, below for the explanation of the purpose of this paragraph.</i></b>

<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 within the specified criteria.</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>
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- 5.2 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced “Disclosable Pecuniary Interests” and new rules on the grant of dispensations to allow Council Members to take part in decisions or vote on matters in which they have a Disclosable Pecuniary interest (“DPI”).
- 5.3 Where a Member has a DPI, they cannot speak and/or vote on a matter in which they have such an interest, unless they have obtained a dispensation in accordance with the requirements of section 33 of the Localism Act.
- 5.4 The grounds for the grant of a dispensation under section 33(2) of the Localism Act are, if, after having regard to all relevant circumstances, the Council considers that:
- (a) Without the dispensation the number of Members prohibited from participating in or voting on any particular business would be so great a proportion of the body transacting the business as to impede the transaction of that business.
  - (b) Without the dispensation every Member of the Executive would have a DPI prohibiting them from participating/voting in any particular business to be transacted by the Executive.
  - (c) Without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
  - (d) The grant of the dispensation would be in the interests of the inhabitants of Waverley.
  - (e) It is otherwise appropriate to grant the dispensation.
- 5.5 Previously, the national model Code of Conduct for Members specifically stated that Members would not have a prejudicial interest in certain circumstances that potentially affected the majority or a large number of Members. These general exemptions included an interest in any business of the Council which related to:
- (i) housing, where the Member was a tenant of the council (provided that, those functions did not relate particularly to the Member’s own tenancy or lease)
  - (ii) an allowance, payment or indemnity given to members and
  - (iii) setting the council tax or a precept under the Local Government Finance Act 1992
- 5.6 The arrangements on DPis introduced by the Localism Act did not reproduce any of the “general exemptions” set out above. The matters listed above are likely to constitute a DPI, which would prevent Members having such an interest from participating in the decision-making process if they do not have a dispensation.
- 5.7 In February 2012, the Parliamentary Under Secretary of State wrote to all Local Authority Leaders in relation to this issue and stated:



*“some council monitoring officers are informing their councillors that being a council tax payer is a disclosable interest in any budget debate. Councillors are then informed that they would be committing a criminal offence if they speak or vote in that debate unless they obtain a formal dispensation.*

*.....in our opinion, such dispensations are unnecessary”*

- 5.8 Whilst this is not statutory guidance and has not been tested in court, Waverley’s approach has been to rely on guidance issued. However, for the avoidance of any doubt, it is proposed to include in the Member Code of Conduct a blanket dispensation to all Members to enable them to make decisions on the matters specified, notwithstanding them having registered a DPI that would otherwise exclude them from participating.
- 5.9 All Members explicitly sign up to the Code of Conduct as part of their Declaration of Acceptance of Office, therefore the dispensation is granted for the 4-year period of their term of office.

### **Committee on Standards in Public Life**

6. Since the Committee considered the proposed amendments to the Code of Conduct in January, the Committee on Standards in Public Life has published its report on Local Government Ethical Standards. The report looks at the current framework governing the behaviour of local government councillors and executives in England and makes a number of recommendations to promote and maintain the standards expected by the public.
7. The Executive Summary of the report, plus the list of recommendations and suggested best practice, is attached for information (Annexe 2). Some of the recommendations will need changes to legislation to make them mandatory, although some could be adopted on a voluntary basis.
8. It is proposed that officers review the report and compare recommended best practice against Waverley’s arrangements, and bring a report with recommendations where appropriate to the June meeting of the Standards Committee.

### **Conclusion**

9. The proposed amendments to the Members’ Code of Conduct do not add any additional burdens on Waverley Members, but provide clarification on a number of areas, which may be helpful to newly elected members in particular.
10. A further review of Waverley’s Standards framework will be undertaken against the recommendations of the report of the Committee on Standards in Public Life on Local Government Ethical Standards.

### **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.

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## 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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### **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, **including the use of email 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.

(8) Failure to take appropriate action in respect of a Disclosable Pecuniary Interest may also 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** (including 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 expected 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 Member ~~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 they ~~-councillor or co-opted member~~, and the Monitoring Officer, consider that disclosure of the details of the interest could lead to the Member ~~councillor or co-opted member~~ (or a person connected to them ~~with that councillor or co-opted member~~) being subject to violence or intimidation, then;
- (a) if the interest is entered in the Register of Interests, copies of the register that are made available for inspection or ~~and any version of the Register~~ published on the Council's website, must not include details of the interest (but may state that the Member ~~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 Member ~~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 not 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. Notwithstanding the provisions of Paragraph 5 (1), **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) agreeing an allowance, payment or indemnity given to councillors or co-opted members; and
  - (c) 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.

-END-

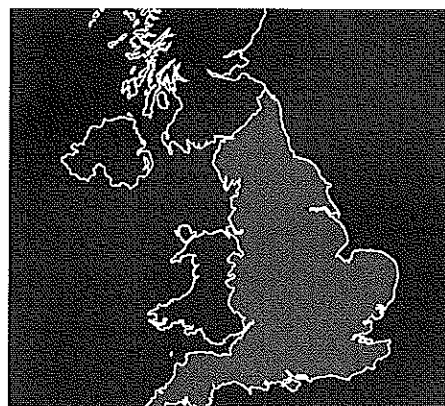
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# **Local Government Ethical Standards**

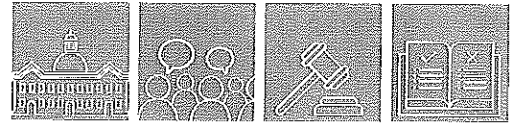
**A Review by the  
Committee on  
Standards in Public Life**

**Committee on  
Standards in  
Public Life**

January 2019





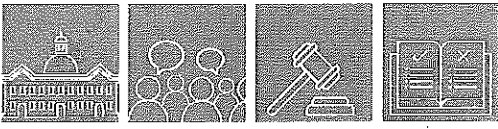


# Local Government Ethical Standards

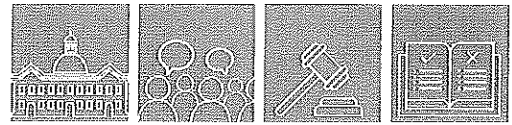
Committee on Standards in Public Life

*Chair: Lord Evans of Weardale KCB DL*

January 2019







# The Seven Principles of Public Life

The Principles of Public Life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the Civil Service, local government, the police, courts and probation services, non-departmental public bodies (NDPBs), and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

## **Selflessness**

Holders of public office should act solely in terms of the public interest.

## **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

## **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

## **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

## **Openness**

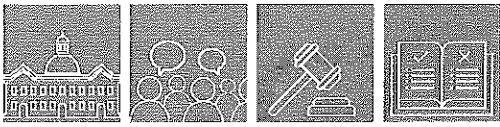
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## **Honesty**

Holders of public office should be truthful.

## **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



Dear Prime Minister,

I am pleased to present the 20th report of the Committee on Standards in Public Life, on the subject of ethical standards in local government.

The Committee has had a long-standing interest in local government, which was the subject of its third report, and which it has considered a number of times since then. This review was not prompted by any specific allegations of misconduct, but rather to assure ourselves that the current framework, particularly since the Localism Act 2011, is conducive to promoting and maintaining the standards expected by the public.

Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence.

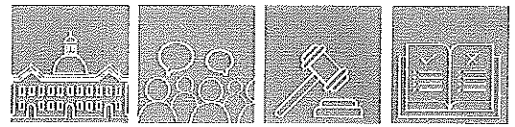
It is clear that the vast majority of councillors and officers want to maintain the highest standards of conduct in their own authority. We have, however, identified some specific areas of concern. A minority of councillors engage in bullying or harassment, or other highly disruptive behaviour, and a small number of parish councils give rise to a disproportionate number of complaints about poor behaviour.

We have also identified a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are inadequate; and the increased complexity of local government decision-making is putting governance under strain.

The challenge is to maintain a system which serves the best instincts of councillors, whilst addressing unacceptable behaviour by a minority, and guarding against potential corporate standards risks.

It is clear from the evidence we have received that the benefits of devolved arrangements should be retained, but that more robust safeguards are needed to strengthen a locally determined system. We are also clear that all local authorities need to develop and maintain an organisational culture which is supportive of high ethical standards. A system which is solely punitive is not desirable or effective; but in an environment with limited external regulation, councils need the appropriate mechanisms in place to address problems when they arise.

Our recommendations would enable councillors to be held to account effectively and would enhance the fairness and transparency of the standards process. Introducing a power of suspension and a model code of conduct will enable councillors to be held to account for the most serious or repeated breaches and support officers to address such behaviour, including in parish councils. Strengthening the role of the Independent Person and introducing a right of



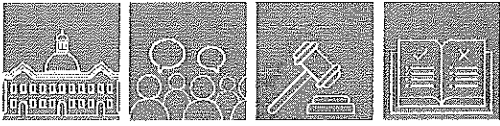
appeal for suspended councillors will enhance the impartiality and fairness of the process, which is vital to ensure that councillors are protected from malicious or unfounded complaints. Greater transparency on how complaints are assessed and decided in a system which is currently too reliant on internal party discipline will also provide a safeguard against opaque decision-making and provide reassurance to the public.

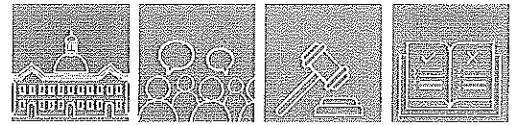
A number of these recommendations involve legislative change which we believe the government should implement. We have also identified 'best practice' for local authorities, which represents a benchmark for ethical practice which we expect that any authority can and should implement.

It is clear to us that local government in England has the willingness and capacity to uphold the highest standards of conduct; our recommendations and best practice will enable them to do so.

I commend the report to you.

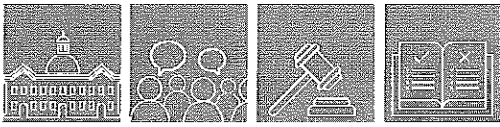
**Lord Evans of Weardale**  
**Chair, Committee on Standards in Public Life**





# Contents

Executive summary	10
List of recommendations	14
List of best practice	18
Introduction	20
Chapter 1: Overview of standards	22
Chapter 2: Codes of conduct and interests	30
Chapter 3: Investigations and safeguards	52
Chapter 4: Sanctions	65
Chapter 5: Town and parish councils	75
Chapter 6: Supporting officers	81
Chapter 7: Councils' corporate arrangements	86
Chapter 8: Leadership and culture	95
Conclusion	102
Appendix 1: About the Committee on Standards in Public Life	103
Appendix 2: Methodology	104



# Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

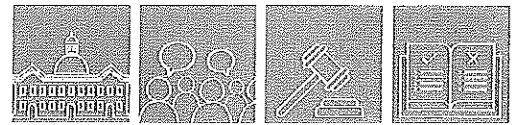
Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

## Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

### **Declaring and managing interests**

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

### **Investigations and safeguards**

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

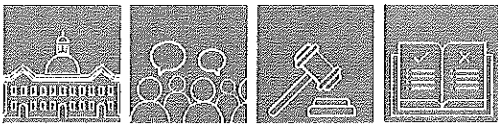
Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

### **Sanctions**

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



## **Town and parish councils**

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

## **Supporting officers**

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

## **Councils' corporate arrangements**

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

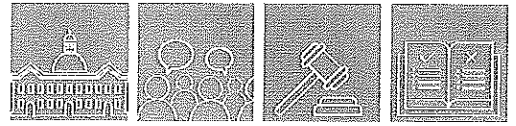
## **Leadership and culture**

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

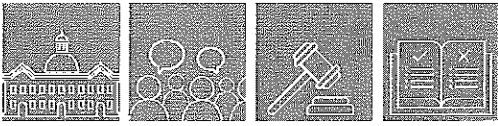
The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be





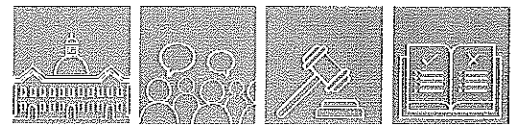
written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.

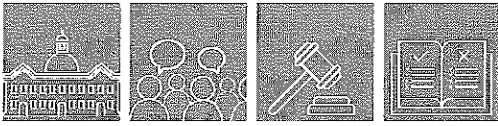


# List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government

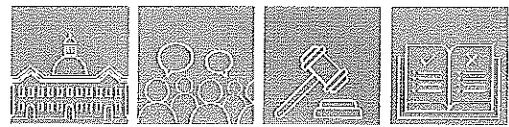


Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government

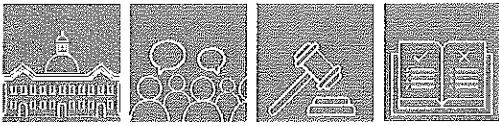


List of recommendations

Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



<b>Number</b>	<b>Recommendation</b>	<b>Responsible body</b>
<b>23</b>	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
<b>24</b>	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
<b>25</b>	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
<b>26</b>	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



# List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**WAVERLEY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**12 MARCH 2019**

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**Title:**

**SCHEME OF DELEGATION – REVIEW**

**[Portfolio Holder: Cllr Julia Potts]**

**[Wards Affected: All]**

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**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.

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**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.

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**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.
  
5. The Standards Committee reviewed the proposed amendments in January and asked for clarification in relation to those shaded below.

<b>General Principles</b>	
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.
<b>Schedule of Authorisations</b>	
5.1	The Chief Executive <b>or any Strategic Director</b> is authorised to issue Instruments of Appointment to the Head of Environmental Services ...
<b>The Monitoring Officer</b>	
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.
<b>The Section 151 Officer</b>	
8A ( <i>New!</i> )	To approve the adoption of <b>new or increased fees and charges</b> , 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.



8B (New!)	Regulation 73 of the CIL Regulations allow the Council to accept the payment of part of a CIL liability in the form of one or more land transfers, representing 'payment in-kind'. The criteria against which Waverley would assess an offer of such an in-kind payment have been agreed by Council and are set out in the <i>Phasing and CIL-in-kind policies</i> .  The delegation to the S151 Officer in consultation with the PFH for Finance, enables any application to pay CIL 'in-kind' rather than in cash to be considered and determined.
<b>Head of Customer and Corporate Services</b>	
17. & 17A (New!)	The delegation to the Head of Customer and Corporate Services has been split to include the role of the Investment Advisory Board in making recommendations to the Executive on certain property transactions.
<b>Head of Environmental Services</b>	
18.3	Updating of relevant licensing legislation.
<b>Head of Policy &amp; Governance</b>	
52D (New!)	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.
<b>The Borough Solicitor</b>	
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.

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## **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.

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## **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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**CONTACT OFFICER:**

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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

	<b>Authority</b>	<b>Function</b>
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

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
2.	Within the approved budget, to approve scales of remuneration of persons employed on Borough and Parish Council elections.	Other local authorities in Surrey.	Non-executive

3.	To amend the designation of a Polling Place, where within six months of an election, (a) a designated polling place unexpectedly becomes unavailable; and (b) it is impractical to report to Council.	Ward councillors, local party agents and, if applicable, official candidates	Non-executive
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### 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 <del>Panel Sub-Committee</del> from the membership of the Standards <del>Panel Committee</del> .	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 increased fees and charges within the Schedule of Fees and Charges, after consultation with the Portfolio Holder for Finance, and subject to the annual approval by Council of the complete Schedule of Fees and Charges as part of the Budget-setting.</u>	<u>Non-executive</u>

<b>8B</b>	<u>To determine, after consultation with the Portfolio Holder for Finance, applications from developers to meet some or all of their obligations to pay Community Infrastructure Levy (CIL) charges through 'payment in kind' (as defined in Waverley's Phasing and CIL-in-kind policies.</u>	<u>Executive</u>
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## CHIEF EXECUTIVE

### Meetings, Members and the Constitution

	Authority	After Consultation with	Function
9.	LEFT BLANK <sup>[c1]</sup> (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><b>except <u>acquisitions or disposals of land or property in excess of £250,000 the following matters</u> which are reserved to the <u>full Council and -Executive (on the recommendation of the Investment Advisory Board).</u>:</b></p> <p><del>(a) Acquisitions or disposal of land or property, and interests in land or property, with a value in excess of £250,000;</del></p> <p><del>(b) the grant or renewal of all leases in excess of 25 years.</del></p>	Executive
17A	<p><u>To undertake all actions in relation to the administration of the Council's estate and property portfolio, and its interests in land or property</u></p> <p><b><u>Except the following matters which are reserved to the Executive:</u></b></p>	<u>Executive</u>

(a) acquisitions or disposals of interests in land or property with a value in excess of £250,000; and

(b) the grant or renewal of all leases in excess of 25 years, 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.

## 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)  <del>(v) the Pet Animals Act 1951 (as amended)</del>                      (vi) Public Health (Control of Disease) Act 1984  <del>(vii) Animal Boarding Establishments Act 1963</del>                      (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),  <del>(xi) Breeding and Sale of Dogs (Welfare) Act 1990, Breeding of Dogs Act 1991 and Breeding of Dogs Act 1973</del>                      (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</p>	Non-executive

- (xiii~~v~~) Guard Dogs Act 1975
- (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;

	<p>(e) the power to make an Order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption which is reserved to the Licensing and Regulatory Committee;</p> <p>(f) all applications and appeals reserved to the Licensing Sub Committee as set out in its Terms of Reference at Part 3, Section E of the Constitution.</p>	
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 &amp; 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</p>	Executive



	<p>2005</p> <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 &amp; 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><b>except for</b></p> <p>the award of the Waste Collection and Recycling Contract which is reserved to the Executive.</p>	
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## Environmental Health

	<b>Authority</b>	<b>Function</b>
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	Executive

	<p>subsequent new or replacing legislation relating to the Council's environmental health functions:</p> <ul style="list-style-type: none"> <li>(i) the Local Government Act 1972</li> <li>(ii) the Local Government (Miscellaneous Provisions) Act 1976</li> <li>(iii) the Public Health Act 1961</li> <li>(iv) the Clean Neighbourhoods and Environment Act 2005</li> <li>(v) the Prevention of Damage by Pests Act 1961</li> <li>(vi) National Assistance Acts 1948 and 1951</li> <li>(vii) Water Act 1989</li> <li>(viii) Disability Discrimination Act 1995</li> </ul> <p>including but not limited to the following:</p> <ul style="list-style-type: none"> <li>(a) <i>drains, private sewers, water closets or soil pipes</i></li> <li>(b) <i>a satisfactory supply of wholesome water</i></li> <li>(c) <i>the control rats and mice</i></li> <li>(d) <i>filthy or verminous premises, articles or persons</i></li> <li>(e) <i>the prevention and suppression of nuisances</i></li> <li>(f) <i>emergency situations arising outside normal working hours.</i></li> </ul>	
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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 &amp; 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 &amp; safety and pesticides functions:</p> <ul style="list-style-type: none"> <li>(i) the European Communities Act 1972</li> <li>(ii) the Food and Environment Protection Act 1985,</li> <li>(iii) the Food Safety Act 1990,</li> <li>(iv) the Health &amp; Safety at Work etc. Act 1974,</li> <li>(v) Sunday Trading Act 1994,</li> <li>(v) Public health (Control of Diseases) Act 1984 (and regulations made thereunder (with the exception of those dealt with under the health protection regulations))</li> <li>(vi) Game Act 1831</li> <li>(vii) Sea Fisheries (Shellfish) Act 1967</li> <li>(viii) Offices Shops and Railway Premises act 1963</li> </ul>	Non-executive/Executive

	(ix) Food and Environment Protection Act 1985	
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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	Non-executive

	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 emergency planning functions as a Category 1 Responder:  (i) Civil Contingencies Act 2004.	
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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

	<b>Authority</b>	<b>Function</b>
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

	<b>Authority</b>	<b>Function</b>
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"> <li>(i) Housing Act 1985</li> <li>(ii) Local Government and Housing Act 1985</li> <li>(iii) Local Government (Miscellaneous Provisions) Acts 1976 and 1982</li> <li>(iv) Housing Act 1996</li> <li>(v) Children Act 1989</li> <li>(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</li> <li>(vii) Housing Act 2004</li> <li>(viii) Anti-Social Behaviour, Crime and Policing Act 2014</li> <li>(ix) Clean Neighbourhoods and Environment Act 2005</li> </ul>	Non-Executive/Executive

	<ul style="list-style-type: none"> <li>(x) Leasehold Reform, Housing and Urban Development Act 1993</li> <li>(xi) Leasehold Reform Act 1967</li> <li>(xii) Housing and Planning Act 2016</li> <li>(xiii) Homelessness Act 2002</li> <li>(xiv) Housing, Grants, Construction and Regeneration Act 1996</li> <li>(xv) Prevention of Damage by Pests Act 1949</li> <li>(xvi) Public Health Acts 1936 and 1961</li> <li>(xvii) Caravan Sites and Control of Development Act 1960</li> <li>(xviii) Environmental Protection Act 1990</li> <li>(xix) Caravan Sites Act 1968 and Mobile Homes Act 2013</li> <li>(xx) Protection from Eviction Act 1977</li> <li>(xxi) Criminal Law Act 1977</li> <li>(xxii) Building Act 1984</li> <li>(xxiii) Energy Act 2013</li> <li>(xxiv) Energy Act 2011</li> </ul>	
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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

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
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

	<b>Authority</b>	<b>Function</b>
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"> <li>(vi) Growth and Infrastructure Act 2013</li> <li>(vii) Housing Act 1996</li> <li>(viii) Housing Act 2004</li> <li>(ix) Human Rights Act 1998</li> <li>(x) Infrastructure Act 2015</li> <li>(xi) Local Democracy, Economic Development and Construction Act 2009</li> <li>(xii) Local Government Act 2003</li> <li>(xiii) Localism Act 2011</li> <li>(xiv) Planning (Hazardous Substances) Act 1990</li> <li>(xv) Planning (Listed Buildings and Conservation Areas) Act 1990</li> <li>(xvi) Planning Act 2008</li> <li>(xvii) Planning and Compensation Act 1991</li> <li>(xviii) Planning and Compulsory Purchase Act 2004</li> <li>(xix) Pollution Prevention and Control Act 1999</li> <li>(xx) Town and Country Planning Act 1990</li> <li>(xxi) Building Act 1984</li> <li>(xxii) Self-build and Custom Housebuilding Act 2015</li> <li>(xxiii) Neighbourhood Planning Act 2017</li> <li>(xxiv) Anti-Social Behaviour Act 2003</li> </ul>	
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><b>except</b></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.	Under the Licensing Act 2003: (a) to respond to the Licensing Authority in connection with consultations on applications on behalf of the local planning authority; (b) to apply for a review of a premises licence or a club premises certificate.	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

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

	<b>Authority</b>	<b>Function</b>
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

	<b>Authority</b>	<b>Function</b>
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"> <li>(i) Housing Act 1985</li> <li>(ii) Local Government (Miscellaneous Provisions) Acts 1976 and 1982</li> <li>(iii) Local Government and Housing Act 1985</li> <li>(iv) Housing Act 1996</li> <li>(v) Children Act 1989</li> <li>(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</li> <li>(vii) Housing Act 2004</li> <li>(viii) Anti-Social Behaviour, Crime and Policing Act 2014</li> <li>(ix) Clean Neighbourhoods and Environment Act 2005</li> <li>(x) Leasehold Reform, Housing and Urban Development Act 1993</li> <li>(xi) Leasehold Reform Act 1967</li> <li>(xii) Housing and Planning Act 2016</li> <li>(xiii) Homelessness Act 2002</li> <li>(xiv) Housing, Grants, Construction and Regeneration Act 1996</li> <li>(xv) Prevention of Damage by Pests Act 1949</li> <li>(xvi) Public Health Acts 1936 and 1961</li> <li>(xvii) Caravan Sites and Control of Development Act 1960</li> <li>(xviii) Environmental Protection Act 1990</li> <li>(xix) Public Health (Control of Disease) Act 1984</li> <li>(xx) Caravan Sites Act 1968 and Mobile Homes Act 2013</li> <li>(xxi) Protection from Eviction Act 1977</li> <li>(xxii) Criminal Law Act 1977</li> <li>(xxiii) Building Act 1984</li> <li>(xxiv) Energy Act 2013</li> <li>(xxv) Energy Act 2011</li> </ul>	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

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
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

	<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
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

	<b>Authority</b>	<b>Function</b>
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

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



## Burial or Cremation

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

## BOROUGH SOLICITOR

### Data Protection Act 1998

	Authority	Function
77.	<del>To waive in cases of hardship the subject access fee allowed for under the Data Protection Act 1998.</del> <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

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