

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: 25 September 2020

### **Membership of the Standards Committee**

Cllr John Robini (Chairman)  
Cllr Michael Goodridge (Vice Chairman)  
Cllr Brian Adams  
Cllr Paul Follows  
Cllr John Gray  
Cllr Jerry Hyman

Cllr Robert Knowles  
Cllr Penny Marriott  
Cllr Peter Marriott  
Cllr Tom Hughes (Co-Optee)  
Cllr Stefan Reynolds (Co-Optee)

Dear Councillors

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

DATE: MONDAY, 5 OCTOBER 2020

TIME: 7.00 PM

PLACE: ZOOM MEETING - VIRTUAL MEETING

The Agenda for the meeting is set out below.

The meeting can be viewed remotely in accordance with the provisions of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, via the Council's YouTube page.

Yours sincerely

ROBIN TAYLOR  
Head of Policy and Governance

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This meeting will be webcast and can be viewed by visiting [www.waverley.gov.uk/webcast](http://www.waverley.gov.uk/webcast).

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### **NOTE FOR MEMBERS**

Members are reminded that Contact Officers are shown in 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 May 2020.

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 Monday 28 September 2020.

5. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

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 Monday 28 September 2020.

## **ETHICAL STANDARDS**

### 6. **LGA MODEL MEMBER CODE OF CONDUCT**

The Monitoring Officer will give a verbal update on the status of the Local Government Association's development of a new Model Code of Conduct for local government Members.

#### **Recommendation**

That the Committee notes the update and agrees next steps.

## **CONSTITUTIONAL MATTERS**

### 7. **REVIEW OF VIRTUAL MEETING ARRANGEMENTS** (Pages 5 - 24)

On 9 June 2020, the Council adopted Virtual Meeting Procedure Rules in line with the Regulations for remote attendance at meetings which came into effect on 4 April 2020. At its meeting on 21 May 2020, the Standards Committee agreed to review the experience of holding virtual committee meetings with remote attendance by Members and Officers, and to make recommendations on changes to the Virtual Meeting Procedure Rules, if necessary, in the light of experience.

The Standards Committee also agreed to review the temporary arrangements for the planning committees, introduced to simplify the committee arrangements whilst holding virtual meetings.

#### **Recommendation**

It is recommended that the Committee

- (i) considers the experience of virtual meetings held to date, and makes comments, observations or recommendations, as appropriate to improve the way in which virtual committee meetings are run going forward; and,
- (ii) in view of the latest Government guidance on use of council buildings and general tightening of Covid-19 precautions until March 2021, recommends to Council that the current arrangements for the EASTERN and WESTERN Planning Committees continue to the end of the council year on 7 May 2021.

### 8. **SCHEME OF DELEGATION** (Pages 25 - 32)

This report responds to two matters raised by a number of Councillors in relation to the Scheme of Delegation. The Committee is asked to consider how it wishes to proceed to resolve these matters in a satisfactory way.

#### **Recommendation**

It is recommended that the Committee:

- (i) Considers whether to make any recommendations to Council on the delegation to the S151 Officer in relation to approval of fees and charges (matter 1).
- (ii) Considers whether to make any recommendations to Council to limit the scope of the Scheme of Delegation to Officers once a matter has been brought to committee in order for a committee to retain 'ownership' of an issue (matter 2).
- (iii) Notes that the Audit Committee will be reviewing its terms of reference and potential areas of overlap with the terms of reference of the Standards Committee and Overview and Scrutiny, and that the Chairman and Vice-Chairman of the Standards Committee will be invited to contribute to this review.

9. GOVERNANCE REVIEW

Cllr Paul Follows to give a verbal update on the Governance Review.

10. 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**

**5 OCTOBER 2020**

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**Title:**

**Review of Virtual Meeting Arrangements**

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**Portfolio Holder:** N/A

**Head of Service:** Robin Taylor, Head of Policy & Governance (Monitoring Officer)

**Key decision:** No

**Access:** Public

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**1. Purpose and summary**

- 1.1 On 9 June 2020, the Council adopted Virtual Meeting Procedure Rules in line with the Regulations<sup>1</sup> for remote attendance at meetings which came into effect on 4 April 2020. At its meeting on 21 May 2020, the Standards Committee agreed to review the experience of holding virtual committee meetings with remote attendance by Members and Officers, and to make recommendations on changes to the Virtual Meeting Procedure Rules, if necessary, in the light of experience.
- 1.2 The Standards Committee also agreed to review the temporary arrangements for the planning committees, introduced to simplify the committee arrangements whilst holding virtual meetings.

**2. Recommendation**

- 2.1 It is recommended that the Committee
- (i) considers the experience of virtual meetings held to date, and makes comments, observations or recommendations, as appropriate to improve the way in which virtual committee meetings are run going forward; and,
  - (ii) in view of the latest Government guidance on use of council buildings and general tightening of Covid-19 precautions until March 2021, recommends to Council that the current arrangements for the EASTERN and WESTERN Planning Committees continue to the end of the council year on 7 May 2021.

**3. Reason for the recommendation**

To review the arrangements as required by Council when adopted in June 2020.

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<sup>1</sup> Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations

## **4. Background**

### **Virtual meeting arrangements**

- 4.1 The Coronavirus Act 2020, which came into force at the end of March 2020, included provisions under section 78 for Regulations to allow more flexibility around requirements for local authority meetings than are set out in the Local Government Act 1972 and Local Government Act 2000. The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings (England)) Regulations 2020 came into effect on 4 April 2020.
- 4.2 The Regulations allow for some or all Members of a council committee (Full Council, a committee, or the Executive) to remotely access and attend a formal council meeting, and to take part in any vote and decision. The Regulations apply to all local authority meetings held before 7 May 2021, the date of the next local authority elections, and are not a permanent change to meeting arrangements.
- 4.3 The Regulations require that those Members attending remotely must be able to hear (and see, where practicable) the contributions of all other Members of the committee, whether they are physically present in the meeting or also attending remotely. Those attending physically must be able to hear (and see, where practicable) those who are attending remotely. Proceedings must also be broadcast, so that the public may also hear (and see, where practicable) the proceedings and the contributions of all attendees.
- 4.4 The effect of the Regulations on an Authority's Constitution is to insert what are, in effect, mandatory standing orders for those authorities that wish to hold meetings remotely, either wholly or partially. It is considered that the Regulations, and therefore the standing orders, have an automatic amending effect on an authority's existing rules and can be applied immediately in order to run meetings remotely. Nonetheless it is regarded as good practice, even with express mandatory standing orders, to have these adopted formally. On the recommendation of the Standards Committee (STD26/19, 21 May 2020), at its meeting on 9 June 2020 the Council adopted Virtual Meeting Procedure Rules (attached at Annexe 1).
- 4.5 The Standards Committee is asked to consider the Virtual Meeting Procedure Rules and the experience to date of holding virtual meetings, and whether any changes are required to the Procedure Rules, or more informal practises and arrangements.

### **Temporary Governance Arrangements**

- 4.6 At the Council meeting on 9 June 2020, Council agreed temporary governance arrangements that anticipated a revised schedule of committee meetings that would use remote meetings sparingly and for matters considered to be critical to the Council's business. A 3-phase approach was agreed with an anticipated return to a full calendar of committee meetings by November 2020.
- 4.7 In practice, Waverley very quickly resumed a full committee schedule of virtual meetings with remote attendance by Members and Officers. As at 30 September, 32 virtual committee meetings have been held, including attendance by members

of the public and exempt sessions where the press and public have been excluded.

- 4.8 Whilst the expectation of some in June was that meetings might 'return to normal' by the autumn, that clearly is not going to happen and would go against government guidance, and regulations. [COVID-19: Guidance for the safe use of council buildings](#) (updated 9 September 2020) continues to recommend that where meetings can take place digitally, without the need for face-to-face contact, they should do so. Where council buildings need to be used for physical meetings, these meetings must be managed within the [current] social distancing guidance and principles. Given that the most recent (22 September 2020) government restrictions have been put in place until March 2021, the current arrangements for virtual meetings will remain in place at least until then, and most likely until the end of the Council year on 7 May 2021.

## **EASTERN and WESTERN Planning Committees**

- 4.9 Council on 9 June 2020 agreed to implement two new temporary planning committees (EASTERN and WESTERN) to replace the five existing planning committees (Joint Planning Committee, and Southern, Western, Eastern and Central Area Planning Committees) in order to streamline the planning committee decision-making arrangements whilst resources are stretched due to the impact of Covid-19.
- 4.10 The agreed Terms of Reference of the EASTERN and WESTERN planning committees are attached at Annexe 2. The Council agreed to continue these arrangements to December 2020, with an interim review by the Standards Committee in September 2020.
- 4.11 Since 9 June, EASTERN Planning Committee has met six times, and WESTERN Planning Committee has met seven times. Each committee has met fortnightly in order to address the backlog of applications that built up during the initial hiatus between the national lockdown and virtual meetings being implemented.
- 4.12 Given the latest Covid-19 restrictions, and the need to continue holding meetings virtually until 31 March 2021 at the earliest, it is recommended that the Standards Committee asks Council to agree that the current arrangements are extended until the end of the current council year on 7 May 2021.

## **5. Relationship to the Corporate Strategy and Service Plan**

- 5.1 Holding virtual meetings supports the objective of open participative governance, and ensures that the business of the Council continues despite the restrictions on holding meetings in person.

## **6. Implications of decision**

### **6.1 Resource (Finance, procurement, staffing, IT)**

There are staffing implications of holding virtual meetings in that they require an additional officer to be present to 'host' the Zoom meeting. This has been met within existing resources.

Both the Council Chamber and Committee Room 1 at the Council offices have been upgraded to Zoom Rooms, which will support holding hybrid meetings in the future once it is appropriate and safe to hold these.

## **6.2 Risk management**

- 6.2.1 Not having arrangements in place to enable essential decisions to be taken at this time will hamper the Council's ability to meet its legal responsibilities, particularly in relation to determining planning applications.
- 6.2.2 Whilst there are risks of IT failure impacting on meetings, this is primarily related to the reliability and resilience of individuals' own broadband connections rather than a corporate IT system.

## **6.3 Legal**

Any legal implications are discussed within the body of this report.

## **6.4 Equality, diversity and inclusion**

- 6.4.1 The ability for Members to attend meetings remotely has enabled the democratic processes of the Council to continue throughout the Covid-19 pandemic period and ensured that Members and officers who have been clinically shielding have not been excluded.
- 6.4.2 The ability for members of the public to 'attend' and participate in council meetings by remote means is embedded with the Regulations. Waverley has webcast its principal committee meetings for a number of years, and the public are familiar with viewing meetings online, either live or after the event. The participation of members of the public in meetings, particularly planning committees, has been maintained throughout.

## **6.5 Climate emergency declaration**

- 6.5.1 The ability for Members to attend council meetings remotely has reduced the number of car journeys that need to be made to the Council offices and make an immediate contribution to reducing the Council's carbon footprint. Whilst the Regulations are time-limited (local authority meetings held up to 7 May 2021) it might be expected that this will bring closer the time when these arrangements are enabled permanently.

## **7. Consultation and engagement**

- 7.1 N/A.

## **8. Other options considered**

- 8.1 Given the current Covid-19 situation, holding council meetings in person is not an option. Not holding virtual meetings would seriously impact on the decision-making capabilities of the Council, and is not a realistic option.



## **9. Governance journey**

- 9.1 Any recommendations from the Standards Committee will be forwarded to Council for consideration.

### **Annexes:**

Annexe 1 – Virtual Meeting Procuedure Rules

Annexe 2 – EASTERN and WESTERN Planning Committee Terms of Reference

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### **Background Papers**

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

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### **CONTACT OFFICER:**

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**WAVERLEY BOROUGH COUNCIL**

**VIRTUAL MEETINGS PROCEDURE RULES**

These rules have been made in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the ‘Regulations’) and will remain in force until those Regulations are repealed.

Any Procedure Rules that have not been specifically referenced, but that are nonetheless inconsistent with the Regulations will be disapplied by virtue of Regulation 5(5).

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**VMPR 1 No Requirement to Hold an Annual Meeting**

*Amends Council PR1 (Annual Meeting)*

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of Council may only take place:

- (a) where called by the Mayor in consultation with the Chief Executive and Group Leaders; or
- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

**VMPR 2 Access to Information**

*Amends Council PR 6 (notice and summons to meeting) and*

*Access to Information PR 5 (access to agenda and reports before the meeting), etc*

For all purposes of the Constitution, the terms “notice”, “summons”, “agenda”, “report”, “written record” and “background papers” when referred to as being a document that is:

- (i) “open to inspection” shall include for these and all other purposes as being published on the website of the council; and
- (ii) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

**VMPR 3 Remote Access to Meetings**

*Amends Council PR 6 (notice and summons to meeting) and*

*Access to Information Procedure Rule 3 (rights to attend meetings)*

- (a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
  - (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and

- (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person; and
- (b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**VMPR 4 Members in Remote Attendance**

*Amends Council PR 8 (quorum)*

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting’s quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
  - (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate:
  - (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
  - (ii) count the number of Members in attendance for the purposes of the quorum;
  - or
  - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

**VMPR 5 Remote Attendance by Members of the Public**

*Amends Council PR10 (questions by the public),*

*Amends any scheme for public participation in respect of planning, licensing and other committees and Executive PR 2.9*

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following

conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:

- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
  - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
  - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Standing Order 5A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5A(a) above to be re-established;
  - (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
  - (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

#### **VMPR 6 Remote Voting**

*Amends Council PR 17 (voting)*

Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the Chair will take the vote

- (a) by use of the electronic polling system for Remote Voting, and electronic voting in the Chamber, or where an electronic voting system is not working correctly or unavailable,
- (b) by the affirmation of the meeting if there is no dissent [by assent]; or
- (c) the Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

#### **VMPR 7 Members excluded from the meeting**

*Amends Council PR 21 (Member Conduct)*

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

## **VMPR 8. Exclusion of Public and Press**

*Amends Council PR 20 (Exclusion of public and press)*

- 8.1 There are times when council meetings are not open to the public, when confidential, or “exempt” issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting and are able to hear or see the proceedings once the exclusion has been agreed by the meeting.
- 8.2 Any Member in remote attendance who fails to disclose that there are in fact persons present who are not so entitled will be in breach of their Members’ Code of Conduct responsibilities.

**Waverley Borough Council**

**EASTERN and WESTERN Planning Committees - Terms of Reference**

**Temporary arrangements for 2020/21 (until a decision is taken by Full Council to revert to the substantive arrangement)**

*Where these Terms of Reference are silent on a matter of procedure, the current Procedure Rules as set out in the Waverley Borough Constitution take precedence.*

**Purpose of the Planning Committees**

1. The key purpose of planning is to manage development in the public interest.
2. The purpose of the Planning Committees is to exercise the Council's functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (Amendment No 2) (England) Regulations 2004 (the Functions Regulations) [see Appendix 1], in so far as these are not delegated to the Head of Planning & Economic Development.
3. The EASTERN and WESTERN Planning Committees will assume the decision-making powers of the Joint Planning Committee and the four Area Planning Committees as they relate to planning applications within the Eastern and Central borough wards, and the Southern and Western borough wards, respectively.

**Membership [PR4]**

4. The EASTERN and WESTERN Planning Committees will each comprise 15 Members, appointed on a politically proportional basis as follows:

EASTERN = 15 Members out of 28 ward seats plus 9 substitute members

(Alford, Cranleigh Rural & Ellens Green; Blackheath & Wonersh; Bramley, Busbridge & Hascombe; Dunsfold\*; Cranleigh East; Cranleigh West; Elstead & Thursley; Ewhurst; Godalming Binscombe; Godalming Central & Ockford; Godalming Charterhouse; Godalming Farncombe & Catteshall; Godalming Holloway; Milford' Shamley Green & Cranleigh North; Witley & Hambledon)

WESTERN = 15 Members out of 29 ward seats plus 8 substitute members

(Chiddingfold\*; Farnham Bourne; Farnham Castle; Farnham Firgrove; Farnham Hale & Heath End; Farnham Moor Park; Farnham Shortheath & Boundstone; Farnham Upper Hale; Farnham Weybourne & Badshot Lea; Farnham Wrecclesham & Rowledge; Frensham, Dockenfield & Tilford; Haslemere Critchmere & Shottermill; Haslemere East & Grayswood; Hindhead)

\*NB Dunsfold & Chiddingfold ward is split between the two areas.

5. Members and substitutes will be appointed by Council, with regard to the nominations of the political Group Leaders.
6. The Chairman and the Vice-Chairman of the Committees will be appointed by Council or elected by the committee as a vacancy arises.
7. Any Member of the Council may be a member or substitute member of a Planning Committee.

### **Substitute members**

- 7.1 Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.
- 7.2 The following procedure will apply to the appointment of substitutes when members are not able to attend a meeting of a Committee, including in the case of a vacancy:
  - (a) The member unable to attend a Committee meeting will submit their apologies to the Head of Policy and Governance at least four clear working days in advance of the meeting to enable a substitute to be arranged, if applicable [eg. by the end of Wednesday for a meeting the next Wednesday].
  - (b) The Head of Policy and Governance will then approach substitutes from the appropriate political group in the order agreed by the Council or the parent Committee.
  - (c) Substitute members must be from the same political group as the member giving the apology, and in the event that no substitute is available, no substitute will be made for that member.
  - (d) The Head of Policy and Governance will notify the Committee of any substitutions at the start of the meeting.
  - (e) Substitutes shall exercise the full voting rights of a member of a Committee when attending a Committee meeting.
  - (f) Substitute members shall be eligible for payment of travelling and subsistence allowances.
  - (g) Members on substitute lists will be sent the full agenda for meetings.
8. All Members of the Committee and Councillors attending as Substitutes must have undertaken mandatory training in the relevant law and procedures which relate to the Committee's work; and, must undertake further mandatory training on an ad hoc basis and at least annually.



### **Time and Place of Meetings [PR 5, PR6]**

9. The time and place of meetings will be determined by the Head of Policy & Governance and notified in the summons.
10. Planning committee meetings will take place in accordance with an agreed schedule. Extra meetings may be scheduled as required.
11. The Head of Policy & Governance will give notice to the public of the time and place of any meeting. At least five clear working days before a meeting, the Head of Policy & Governance will publish the agenda on the Council's website and send an electronic summons to every member of the Planning Committee. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are necessary. The agenda will also be published on the Modern.Gov app.  
Public participation

### **Chairman of Meeting [PR7]**

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

### **Quorum [PR8]**

13. The quorum of a meeting will be one quarter of the whole number of members (ie four Members). During any meeting, if the Chairman counts the number of members present, whether in person or attending remotely, and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### **Members speaking [PR23]**

14. Any Member of the Council who is not a Member of a Planning Committee shall be entitled to attend any meeting of that Committee, but not to vote, but shall be entitled to speak on any specific item for up to four minutes.
15. Any Member wishing to do this shall have to give notice specifying the item to the Head of Policy and Governance by noon on the day of the meeting if the meeting begins after 2pm or by 5pm on the previous working day if the meeting commences before 2pm. The Chairman may waive this rule.
16. Members may seek the consent of the Chairman to present documents or photographs in support of when they speak, but should give the Head of Policy and Governance forty-eight hours' notice, but where this has not been possible the Head of Policy and Governance and Chairman may waive the rule.

17. In the case of Planning Committee meetings, where a Member addresses the Committee on a matter affecting their ward, they shall have a right to speak again towards the end of the debate to clarify any matters.

### **Public Speaking Scheme for Planning Meetings**

18. Waverley runs a public speaking scheme for the Planning Committees. It applies to planning applications scheduled to be determined by one of the planning committees and which have received five or more letters of support (from separate addresses) or five or more letters of objection (from separate addresses).
19. If a planning application is subject to public speaking at a planning committee, there will be three slots, each of four minutes, in which a representative of the objectors, the Town or Parish Council, and a supporter (usually the applicant or agent) may make a statement. Speakers may not present documents or photographs in support of their statement.

## **Appendix 1**

### **Extract from Waverley Borough Council Constitution Part 3 Responsibility for Functions:**

Council functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (Amendment No 2) (England) Regulations 2004 (the Functions Regulations)

#### **Power**

To make decisions on the administrative and procedural issues affecting the determination of applications.

Power to determine planning applications

Power to determine applications to develop land without compliance with conditions previously attached

Power to grant planning permission for development already carried out

Power to decline to determine planning applications for planning permission

Duties relating to the making of determinations of planning applications

Power to determine applications for planning permission made by the Council

Power to make determinations, give approvals and agree other matters relating to the exercise of permitted development rights, including Article 4 Directions removing such rights

Power to enter into or vary or discharge agreements relating to development or use of land, including the enforcement of a restriction or requirement imposed by an agreement.

Power to issue certificates of lawfulness of existing or proposed use or development

Power to serve a completion notice

Power to grant consent for the display of advertisements

Power to authorise entry onto land

Power to authorise applications for warrants to enter land

Power to require the discontinuance of a use of land

Power to require proper maintenance of land

Power to serve a Planning Contravention Notice, Breach of Condition Notice or Stop Notice (including temporary stop notice)

Power to issue an enforcement notice

Power to apply for an injunction restraining breach of planning control, or in relation to a listed building

Power to determine applications for hazardous substances consent and related powers

Power to determine applications for listed building consent and related powers and duties relating to applications for listed building consent

Power to determine applications for Conservation Area Consents and to issue an enforcement notice in relation to demolition of an unlisted building in a Conservation

## Area

Power to serve a Building Preservation Notice and related powers including the power to execute urgent works

Powers relating to the preservation of trees and protection of important hedgerows

## Appendix 2

### Extract from Scheme of Delegation to Officers

#### M. HEAD OF PLANNING & ECONOMIC DEVELOPMENT

##### Development Control and Planning Policy

<b>Authority</b>	<b>After Consultation with</b>	<b>Function</b>
M.1 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 relevant <b>Joint</b> Planning Committee and Ward Councillors	Non-executive
M.2 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 relevant <b>Joint</b> Planning Committee and Ward Councillors	Non-executive
<b>Authority</b>		<b>Function</b>
M.3 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 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 vi. Growth and Infrastructure Act 2013 vii. Housing Act 1996 viii. Housing Act 2004 ix. Human Rights Act 1998 x. Infrastructure Act 2015 xi. Local Democracy, Economic Development and Construction Act 2009		Non-Executive /Executive

- xii. Local Government Act 2003
- xiii. Localism Act 2011
- xiv. Planning (Hazardous Substances) Act 1990
- xv. Planning (Listed Buildings and Conservation Areas) Act 1990
- xvi. Planning Act 2008
- xvii. Planning and Compensation Act 1991
- xviii. Planning and Compulsory Purchase Act 2004
- xix. Pollution Prevention and Control Act 1999
- xx. Town and Country Planning Act 1990
- xxi. Building Act 1984
- xxii. Self-build and Custom Housebuilding Act 2015
- xxiii. Neighbourhood Planning Act 2017
- xxiv. Anti-Social Behaviour Act 2003

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| M.4 | <ul style="list-style-type: none"> <li>(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 (after consultation with the Borough Solicitor for applications of certificates of lawfulness);</li> <li>(B) to determine applications for listed building consent and to take action in relation to listed buildings and Conservation Areas;</li> <li>(C) to respond to consultations and notifications from other local authorities, public bodies, etc.;</li> <li>(D) to determine the need for an Environmental Impact Assessment and/or a Strategic Environmental Assessment;</li> <li>(E) to take direct action/seek injunctions in relation to breaches of planning control, remove unauthorised signage/advertisements and remedying the condition of land;</li> <li>(F) to serve, amend, vary, withdraw, revoke any notices, permissions, certificates (as appropriate) (including but not limited to: enforcement notices, breaches of condition notices, temporary stop notices, stop notices, amenity notices, planning contravention notices, community infrastructure stop notices, certificates of lawfulness);</li> <li>(G) the making and/or adoption of any plan for the purposes of neighbourhood planning</li> </ul> | Non-executive |
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**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 floor space and site area of more than 1 hectare) and which, in the judgement of the Chief Executive, after consultation with the Head of Planning & Economic Development 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
- iv. is a revised application for parcel of land within a development with an extant planning permission previously determined by Joint Planning Committee that increases the total number of dwellings on the total site; and/or
- v. where a revision to an extant planning permission brings the total number of dwellings on a site to 25 or more; 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 (i) to (v) above, the Chief Executive and Head of Planning & Economic Development will normally submit the application to the **Joint** Planning Committee;

(b) any planning application where, within three weeks of the publication of the weekly list of planning applications, any councillor from the relevant **Area** Committee (for the Committee including all or part of the planning application site concerned) makes a request to the Head of Planning & Economic Development (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;

*(For (b) above)* Where the three-week call-in period has expired, but the Head of Planning & Economic Development 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;

(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;

(d) any planning application where an objection from a statutory consultee remains unresolved and the officer's recommendation is to approve the application;

(e) any planning application where the Council is the applicant;

(f) any planning application which is required to be referred to the Secretary of State;

(g) planning applications, which 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, and not from the same individual or the same household) shall only be determined under delegated powers after the Head of Planning or Economic Development (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.



**WAVERLEY BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

**5 OCTOBER 2020**

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**Title:**

**SCHEME OF DELEGATION**

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**Portfolio Holder:** Not applicable (non-Executive function)

**Head of Service:** Robin Taylor, Head of Policy & Governance (Monitoring Officer)

**Key decision:** No

**Access:** Public

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**1. Purpose and summary**

1.1 This report responds to two matters raised by a number of Councillors:

- (i) The delegation granted to the S151 Officer to approve fees and charges, in consultation with the relevant Portfolio Holder(s) by Council on 10 December 2019 on the recommendation of the Audit Committee; and
- (ii) Whether the scheme of delegation should be revised to include a new provision so that:

IF officers refer a particular matter to a committee (either by choice or because there was a listed exception in the scheme of delegation to an officer's authority to otherwise make a particular decision in relation to that matter)

THEN all future decisions relating to that matter must then be taken by the committee rather than being taken by the officer (even if those other decisions would have otherwise been allowable under the scheme without reference to a committee)

1.2 The Committee is asked to consider how it wishes to proceed to resolve these matters in a satisfactory way.

**Matter 1 – Section 151 authority**

1.3 With regards to the the delegated authority given by the Full Council to the Section 151 Officer in December 2019 (point (i) above) the committee could:

- a. choose to recommend to Council that this authority now be removed.
- b. choose to recommend a change to the wording of that delegation to give it a different effect and meaning.
- c. choose to leave the delegation as it is, in which case there will be no need to recommend anything to Full Council.

- 1.4 Whilst there is an expectation that Members and Officers have a working relationship based on trust, the Committee should be mindful of avoiding a situation where a legitimate authority for the S151 officer to make changes to fees and charges in-year under delegated authority could be reversed by Council as part of the budget approval; and *vice versa*.

## **Matter 2 – exceptions to delegated authority within the scheme of delegation**

- 1.5 With regards to the possibility of revising the scheme of delegation to include a provision so that once any decision is referred to a committee either by choice or because of a listed scheme exception in relation to any particular decision, then all future decisions relating to that matter must then be taken by the committee rather than being taken by the officer (even if those other decisions would have otherwise been allowable under the scheme without reference to a committee) the committee is advised to give consideration to any potential unintended negative consequences of automatically constraining delegated officer authority in this way as well as any potential benefits.
- 1.6 Adding a caveat of this type would automatically ensure committee decision-making on all aspects of a matter once a matter had been considered by a committee. It would essentially override all other delegated authority as set out within the scheme from that point forwards.
- 1.7 A key reason for a scheme of delegation is to ensure that where the Council considers decisions do not need to be made by committee and can instead be made appropriately and properly by officers instead, that this can happen, avoiding unnecessary procedure and ‘rubber stamping’ of decisions.
- 1.8 Ultimately the Council has to judge, and it is for full Council to determine, what the correct balance is between those matters that are retained for decision at committee level, those delegated to officers and exceptions to that delegated authority.
- 1.9 Options available to the committee include:
- a. deciding that no changes are needed to the scheme;
  - b. deciding to add, remove or revise any specific listed exceptions to any named officer’s authority within the scheme
  - c. deciding to add a ‘catch all’ statement to the start of the scheme of the type listed in paragraph 1.1(i) above.

## **2. Recommendation**

It is recommended that the Committee:

- (i) Considers whether to make any recommendations to Council on the delegation to the S151 Officer in relation to approval of fees and charges (matter 1).
- (ii) Considers whether to make any recommendations to Council to limit the scope of the Scheme of Delegation to Officers once a matter has been brought to committee in order for a committee to retain ‘ownership’ of an issue (matter 2).

- (iii) Notes that the Audit Committee will be reviewing its terms of reference and potential areas of overlap with the terms of reference of the Standards Committee and Overview and Scrutiny, and that the Chairman and Vice-Chairman of the Standards Committee will be invited to contribute to this review.

### **3. Reason for the recommendation**

- 3.1 This matter is brought before the committee at the request of a number of Councillors. It is important that when elected councillors express concern that any element of the Council's Constitution and associated documentation are not having the desired effect in respect of how governance and decision-making happens at the Council, that this issue is debated by the Standards Committee, the advice of officers is received, and there is an opportunity for the Standards Committee to put forward any recommendations they judge to be appropriate to Full Council for a decision.

### **4. Background**

#### **Delegation to the S151 Officer**

- 4.1 In April 2019, on the recommendation of the Standards Committee, Council approved a new delegation to the S151 Officer in relation to the approval of Fees and Charges:

- E3. 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.

- 4.2 In November 2019, the Audit Committee considered proposed revisions to the Financial Regulations in relation to, amongst other things, the approval of fees and charges:

#### **“Approval of Fees and Charges**

It is proposed that the Section 151 Officer approve changes to fees and charges, including car park fees.

This will allow enable a quick and efficient fee setting approach with more ability to respond to the market commercially when required.

#### **Current regulation:**

7.2 The fees and charges shall be:

- reviewed as part of the budget process or, where appropriate, more frequently.
- approved by Full Council unless covered by a delegated authority
- Budget Holders shall ensure that up-to-date fees and charges are published.

#### **Proposed regulation:**

7.2 The fees and charges shall be:

- reviewed as part of the budget process or, where appropriate, more frequently.
- approved by Section 151 officer unless covered by a delegated authority.

- Budget Holders shall ensure that up-to-date fees and charges are published.

4.3 The Audit Committee recommended the following to Council, which was approved at the Council meeting on 10 December 2019:

“7.2 The fees and charges shall be:

- reviewed as part of the budget process or, where appropriate, more frequently.
- approved by the Section 151 *officer in consultation with the relevant Portfolio Holders unless covered by a delegated authority, and reported annually to Full Council for information as part of the budget report.*
- Budget Holders shall ensure that up-to-date fees and charges are published.”

4.4 The minutes of the Audit Committee in relation to this item (AUD 33/19) were submitted to Council on 10 December 2019, and record that the Committee was informed that the proposed delegation included car park fees:

“It was proposed that the Section 151 Officer be able to approve changes to fees and charges, including car park fees, to speed up the process and give more flexibility to change charges during the year to respond to market demand. Officers assured the Committee that changes to fees would be considered in consultation with the relevant Portfolio Holders, and it was recognised that there was a political element to certain fees and charges. The Committee felt that the case for flexibility was stronger for services where the council was in competition with other providers; also, that Licensing fees and charges should remain within the remit of the Licensing Committee. **It was agreed that the approval of the S151 Officer to amend fees and charges should be in consultation with the relevant Portfolio Holders, and with the complete Schedule of Fees and Charges being reported to Council annually for information as part of the budget report.**”

4.5 On the recommendation of the Audit Committee, Council approved the revised Financial Regulation 7.2 (as set out in paragraph 4.3 above). A number of Councillors have subsequently argued that it was not clear to Members when they were agreeing this that the delegation to the S151 Officer included delegated authority to amend car park fees.

4.6 The Standards Committee is asked to consider whether it is necessary to make a recommendation to Council to amend the delegation to the S151 Officer in relation to approval of Fees and Charges.

4.7 Whilst there is an expectation that Members and Officers have a working relationship based on trust, the Committee should be mindful of avoiding a situation where a legitimate authority for the S151 officer to make changes to fees and charges in-year under delegated authority could be reversed by Council as part of the budget approval; and *vice versa*.

### **Limitations on the Scheme of Delegation**

4.8 At its meeting on 4 December 2018, the Executive considered a report proposing

the grant of a new lease to the Broadwater Park Golf Club following the expiry of their existing lease for a period of time exceeding officers' delegated authority. The proposed terms of the lease extension were set out in an Exempt annexe.

- 4.9 The Executive resolved (EXE59/18) "that Officers be authorised to proceed with due legal process to grant a new lease to the Broadwater Park Golf Club on the terms proposed in Exempt Annexe 1 to the report".
- 4.10 On 8 July 2020, the Executive resolved, on the recommendation of the Property Investment Advisory Board, to commission the Council's external property advisers to undertake a detailed options appraisal of the Broadwater Golf Course site. The recommendation was a consequence of the Head of Finance and Property being unable to satisfactorily complete the "due legal process" in order to complete the grant of a new long lease to the Broadwater Park Golf Club, and a decision by the Head of Finance and Property to terminate the existing lease to Broadwater Park Golf Club.
- 4.11 The Scheme of Delegation to the Head of Finance and Property includes the following:
- J.11 To undertake all actions in relation to the administration of the Council's estate and property portfolio, and its **interests** in land or property  
**Except** the following matters which are reserved to the Executive:
- (i) acquisitions or disposals of interests in land or property with a value in excess of £250,000; and
  - (ii) 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.

Whilst the resolution of the Executive on 4 December 2018 gave the Head of Finance and Property the authority to grant a lease in excess of 25 years, there was no obligation to do so if it was no longer in the Council's interest to do so.

- 4.12 Four members of the Value for Money Overview & Scrutiny Committee called-in the Executive decision of 8 July. The [call-in form](#) included a request [at 1(c)] to call-in:

"the inadequate explanation and apparent failure of process in relation to how the decision by the Executive in December 2018 to grant a new lease to Broadwater Golf Club was overturned which then led to the decisions to approve the requested expenditure. (Reason: to ensure that the VfM O&S Committee can examine all the facts from the decision to grant the new lease to the current situation where there is a potential legal issue and further expenditure which could breach the Constitution and process)."

- 4.13 This part of the call-in was disallowed by the Monitoring Officer as being beyond the scope of the call-in of the Executive's decision of 8 July 2020.
- 4.14 A number of Councillors have proposed that to avoid such a situation arising in future there should be a limitation on the scope of the Scheme of Delegation such that, for example, where an "issue" has been referred to a committee for decision,

all further decisions regarding that “issue” should be “owned” by that committee and not dealt with under delegated authority, even where this might otherwise be allowed due to the nature of the decision being taken.

- 4.15 While there is no suggestion that the decision take by the Head of Finance and Property to terminate the lease was either not in line with the Constitution or Scheme of Delegation, the Committee is asked to consider whether there is a need for such a limitation to the scope of the Scheme of Delegation, and make such recommendation to Council as necessary. The Committee should consider whether any limitation should apply to the Scheme of Delegation as a whole, or just to certain parts.

### **Standards Committee Terms of Reference**

- 4.16 The Standards Committee functions include

“A. To review and propose revisions to the Constitution as set out in Article 15.”

- 4.17 The terms of reference of the Audit Committee include:

“iii. To maintain an overview of the contract procedure rules and financial regulations and recommend their adoption to the Council.”

- 4.18 The Constitution includes the Scheme of Delegation, the Contract Procurement Rules and the Financial Regulations. Therefore, there is some ambiguity around the governance route for changes to ‘the Constitution’ depending on which part is under consideration.

- 4.19 In addition, the Audit Committee has identified possible overlap between its terms of reference and those of the Value for Money Overview & Scrutiny Committee. In order to consider these matters the Audit Committee is holding an informal session to review its terms of reference in relation to the CIPFA Model Terms of Reference for Local Authority Audit Committees, and has invited the Chairman and Vice-Chairman of the Standards Committee to attend and contribute to the discussion. The outcome of these discussions will be reported back to the respective committees.

## **5. Relationship to the Corporate Strategy and Service Plan**

- 5.1 This report supports the Council’s aims for ‘open, democratic and participative governance’.

## **6. Implications of decision**

### **6.1 Resource (Finance, procurement, staffing, IT)**

There are no direct resource implications arising from this report.

### **6.2 Risk management**

### **6.3 Legal**

Any legal implications are discussed within the body of this report.

### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report.

### **6.5 Climate emergency declaration**

There are no direct climate emergency implications arising from this report.

## **7. Consultation and engagement**

7.1 N/A.

## **8. Other options considered**

8.1 N/A.

## **9. Governance journey**

9.1 The Standards Committee may make recommendations to Council in relation to changes to the Scheme of Delegation.

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## **Background Papers**

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

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