

Part 1

Summary and Explanation

PART 1 : Summary and Explanation

The Council's Constitution

Waverley Borough Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 16 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What is in the Constitution?

Article 1 of the Constitution commits the Council to:-

- (i) providing efficient, transparent and accountable decision – making, whilst maximising the involvement of the community to ensure that the Council delivers excellent and effective services, maintained by a commitment to continuous improvement;
- (ii) providing clear, comprehensive and robust guidance on how the constitution works, to ensure that the Council's procedures are effective and that it is clear how to challenge them; and
- (iii) clear criteria providing the opportunity for the review of governance arrangements should the Council wish to revise or reform its constitution in the future.

Articles 2-16 explain the rights of citizens and how the key parts of the Council operate. These are:-

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Scrutiny of decisions (Article 6)
- The Executive (Article 7)
- Regulatory, Quasi-Judicial and Other Committees (Article 8)
- The Standards Panel (Article 9)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision-making (Article 13)

- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16).

How the Council operates

The Council is composed of 57 councillors (or members) elected every four years. Councillors are democratically accountable to residents of their ward. Their overriding duty is to the whole Waverley community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises members on the Code of Conduct.

All councillors meet together as the Council around six times a year. Meetings of the full Council are usually open to the public but may consider certain items in exempt sessions. Here councillors decide the Council's budget and policy framework and set the budget each year.

The role of full Council, comprising all 57 members, is to:-

- elect each year the Mayor and Deputy Mayor;
- elect the Leader for a four year period;
- approve each year the allocation of seats on Committees and Sub-Committees and substitute lists; and
- appoint each year the Council's Regulatory Committees, Overview and Scrutiny Committees, Joint Committees, Standards and Appeals Panels, etc.

The Council is empowered to hold to account the Executive and its Regulatory Committees by the receipt of regular reports and by submitting minutes, from meetings of the Executive and committees, presented in two parts, comprising:-

Part I - matters for decision by the Council, which are subject to debate and discussion concluding with a vote in accordance with the proper procedures on each matter containing a recommendation for decision. Matters for decision will include the policy framework and changes to it, Council Tax levels and budget setting, constitutional issues, rent levels, establishment matters etc.

Part II matters for the information of the Council, and subject to no debate. Members relevant committee may reply, without further debate.

The Council meeting also provides a forum for:-

- formal questions from any member of the Council on a matter of local concern within the Borough;

- the receipt of petitions from any member of the Council or Local Government elector for Waverley on a matter relating to an issue over which the Council has powers or duties, in accordance with the Council's Petition Scheme; and
- special debates of councillors, to address matters in a less formal manner, but comprising all members of the Council.

HOW DECISIONS ARE MADE

- The Executive is the part of the Council which is responsible for delegated decisions.
- The Executive is made up of the Leader and up to nine councillors appointed by the Leader, with the Executive's responsibilities divided into areas of responsibility (portfolios), each member leading on a specific group of policy issues.
- When major decisions are to be discussed or made, these are published in the Executive's Forward Programme of Key Decisions in so far as they can be anticipated.
- If these major decisions are to be discussed with council officers at a meeting of the Executive, this will generally be open to councillors and the public to attend except where personal or confidential matters are being discussed.
- The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

OVERVIEW AND SCRUTINY COMMITTEES

The Council appoints ~~two~~ four Overview and Scrutiny Committees each of ~~up to 199~~ non-Executive Members^[a1]. The role of the Committees will be to:

- review and scrutinise decisions made by, and the performance of, the Executive, Committees or Council officers;
- review and scrutinise the performance of the Council in relation to its performance objectives, performance targets, or particular service areas;
- review and scrutinise the performance of other public bodies;
- make recommendations to the Executive, Committees or Council arising from the above;
- assist the Council and Executive in the development of its budget and policy framework; and
- conduct research and other consultation on policy issues and possible options, including in-depth review

The Committees will have call-in powers in relation to individual Executive decisions. Call-in can be triggered by a notice signed by any 4 members or substitute members of the Committee. Details are set out in the Overview and Scrutiny ~~Protocol~~ Procedure Rules.

The Overview and Scrutiny Committees will be able to make an annual report, or recommendations to the Executive or in exceptional circumstances where a

decision by the Executive is outside the Council's budget or policy framework, to the Council.

In the event of a single party Executive and subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to 6 members), the Chairmen of the ~~two~~ Overview and Scrutiny Committees should be nominated ~~from~~ by the largest ~~rst~~ minority group on the Council (this can include non-members of the largest minority group or members of the majority group). The Vice-Chairman of the Overview and Scrutiny Committee shall usually not be from the same political group as the Chairman.

THE COUNCIL'S STAFF

The Council has people working for it as a corporate body (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. There is a Member/Officer Protocol governing the relationship between officers and councillors, which is set out in Part 5.

CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

Where members of the public use specific Council services, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:-

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- inspect the Constitution on our website or obtain a copy on payment of a reasonable fee;
- attend meetings of the Council, its Executive, Committees and Sub-Committees, except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Executive;
- in accordance with the Waverley scheme, petition the Council on matters of local concern and ask questions at Overview and Scrutiny and other Committees;
- contribute, by invitation, to matters being considered by the Overview and Scrutiny Committees;
- speak at Area and Joint Planning Committee meetings if the public speaking scheme applies to an application

- find out, from the Executive's Forward Programme of Key Decisions, what major decisions are to be discussed by the Executive and when;
- attend all formal meetings of the Executive where key decisions are being discussed or decided (except where personal or confidential matters are being discussed);
- see public reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council in accordance with its Customer Charter about:-
 - a failure to do something it should have done;
 - something done badly;
 - unfair treatment; or
 - something it should not have done.
- after using the Council's own complaints process, to complain to the Local Government Ombudsman or the Local Government Housing Ombudsman if they think the Council has not followed its procedures properly.
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts at the annual audit and make their views known to the external auditor.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Executive Director, Waverley Borough Council, The Burys, Godalming, Surrey, GU7 1HR. Telephone: (01483) 523237. E-mail: paul.wenham@waverley.gov.uk.

Article 3 of this Constitution contains a statement of the rights of citizens to inspect agenda and reports and attend meetings.

Article 3 – Citizens and The Council

3.01 Citizens' Rights

Citizens of Waverley Borough are the people registered as electors, together with all other people living or working in the Borough. Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and Petitions.** Citizens on the electoral roll for the Borough have the right to:
- vote at elections;
 - petition to request a referendum for a Mayoral form of Executive; and,
 - petition the Council on matters of local concern.
- (b) **Information.** Citizens have the right to:
- (i) attend meetings of the Council, the Executive and Committees where **key** decisions are being discussed, except where confidential or exempt information is likely to be discussed, and the meeting is therefore held in private;
 - (ii) find out from the Executive's Forward Programme of **Key** Decisions, what **major** decisions are to be discussed by the Executive and when;
 - (iii) see public reports and background papers, and any record of decisions made by the Council, the Executive and its Committees, except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (iv) a copy, on making a written request, of all types of recorded information held by the Council, subject to a range of exemptions under the Freedom of Information Act 2000;
 - (v) on making a written request and upon payment of a fee, a copy of any personal data held about him or her, under the Data Protection Act 1998;
 - (vi) inspect the Council's accounts and make their views known to the external auditor;
 - (vii) upon payment of a fee, obtain a paper copy of the Council's Constitution or access it on our website free of charge; and
 - (viii) contact their local Councillor about any matters of concern to them.
- (c) **Participation.** Citizens have the right to **participate in question time ask formal questions** at Council, **the Executive** and **its some** Committees, subject to the correct procedures being followed as set out in the Council's Constitution. They also have the right to contribute to matters being

considered by the Overview and Scrutiny Committees. Rights to submit petitions are set out in Council Procedure Rules [number 10.9]

Article 6 – Overview and Scrutiny Committees

OVERVIEW AND SCRUTINY – GENERAL COMMENTS

Since 2000 most Councils have been managed by an Executive of up to ten elected Councillors. These Councillors are able to take most management decisions within the overall policy framework agreed by full Council which consists of all elected Councillors.

Overview and Scrutiny Committees are a key element of executive arrangements. They are the means by which the Executive is held to account for its decisions on the implementation of Council policy and provide an opportunity for a methodical review of performance and the effectiveness of policies. They also act as a check and balance on the powers of the relatively small group of councillors who make up the Executive.

Effective scrutiny is essential to achieve enhanced accountability and transparency of the decision-making process. Overview and Scrutiny Committees also have a key role in the policy development process, in reviewing budgetary and general policies, making recommendations either to the full Council or the Executive on future policy options and providing the framework for accountable, transparent decisions. The Council is committed to establishing a constructive and creative relationship between the Executive and scrutiny roles in Waverley and partner organisations.

The guiding principle of the overview and scrutiny function is that the process should make a positive contribution to the work of the Council.

At Waverley, Overview and Scrutiny Committees are based on ~~particular functions (e.g. housing and community welfare, environment)~~ the Council's Corporate Priorities. The membership is politically proportionate. Each Overview and Scrutiny Committee can carry out investigatory and research work as informal working groups, divide with the approval of the Executive into smaller sub-committees, with appropriate officer support, to study and report back to the main Committee on a particular topic. Currently, a scheduled meeting of each Overview and Scrutiny Committee is held ~~once a cycle, five~~ six times a year, with additional meetings, if necessary, ~~to discuss called-in matters~~ subject to the agreement of the Chairman and Vice-Chairman.

6.01 Terms of Reference

Waverley has ~~two~~ four Overview and Scrutiny Committees covering the following areas:

Community	Corporate
<ul style="list-style-type: none">Community welfareOlder people in the community	<ul style="list-style-type: none">Corporate FinanceProvision of Housing Services

[Updated March 2017]

<ul style="list-style-type: none"> • Day centres • Community safety • Town and village liaison • Rural issues and the voluntary sector • Environment • Planning and major developments • Economic development • Land drainage • Business liaison • Cultural and leisure provision and youth 	<ul style="list-style-type: none"> • Any inspection framework in place • Value for Money • Corporate and Community Strategies • Partnership Working • Member Communications • Asset Management • Information Technology, including telecommunications • HR including Waverley Training Services • Corporate Communications and Public Relations • Customer Service • Co-ordinating and publishing information on service performance • Elections and electoral registration • Locality Offices
<u>Overview and Scrutiny Committee</u>	<u>Services and Areas of Responsibility Covered</u>
<p><u>1. Customer Service and Value for Money</u></p> <p><u>To provide effective scrutiny of the achievement of the Council's Corporate Priorities 1 and 4</u></p>	<ul style="list-style-type: none"> ➤ <u>Corporate Plan</u> ➤ <u>Customer Services</u> ➤ <u>Communications and Public Relations</u> ➤ <u>Democratic Services</u> ➤ <u>Elections</u> ➤ <u>Complaints</u> ➤ <u>Corporate Finance</u> ➤ <u>Revenues and Benefits</u> ➤ <u>Economic Development</u> ➤ <u>Business Liaison</u> ➤ <u>Property</u> ➤ <u>IT</u> ➤ <u>Procurement and Commissioning</u> ➤ <u>HR and Recruitment</u>
<p><u>2. Community Wellbeing</u></p> <p><u>To provide effective scrutiny of the achievement of the Council's Corporate Priority 2</u></p>	<ul style="list-style-type: none"> ➤ <u>Health and Wellbeing</u> ➤ <u>Leisure and Sport</u> ➤ <u>Arts, Culture and Museums</u> ➤ <u>Youth and Young People</u> ➤ <u>Waverley Training Services</u> ➤ <u>Community Services</u> ➤ <u>Day Centres</u>

	<ul style="list-style-type: none"> ➤ <u>Provision for Older People in the Community</u> ➤ <u>Community Safety</u> ➤ <u>Grants</u> ➤ <u>Licensing</u> <p><u>This Committee will act as the designated Crime and Disorder Committee for the purposes of Section 19 of the Police and Justice Act 2006.</u></p>
<p><u>3. Environment</u></p> <p><u>To provide effective scrutiny of the achievement of the Council's Corporate Priority 3</u></p>	<ul style="list-style-type: none"> ➤ <u>Planning and Major Developments</u> ➤ <u>Building Control</u> ➤ <u>Refuse, Recycling, Food Waste Collection</u> ➤ <u>Car Parking</u> ➤ <u>Street Cleaning</u> ➤ <u>Parks, Countryside and Open Spaces</u> ➤ <u>Rural Issues</u> ➤ <u>Land Drainage and Flooding</u> ➤ <u>Sustainability</u> ➤ <u>Environmental Health</u>
<p><u>4. Housing</u></p> <p><u>To provide effective scrutiny of the Council's housing function</u></p>	<ul style="list-style-type: none"> ➤ <u>HRA Business Plan</u> ➤ <u>Housing Development</u> ➤ <u>Provision of Housing Services</u> ➤ <u>HRA Asset Management</u> ➤ <u>Homelessness</u> ➤ <u>Housing Allocation</u> ➤ <u>Sheltered Housing</u> ➤ <u>Tenancy and Estates</u>

The Overview and Scrutiny Committees may meet jointly, in any combination, to consider matters of mutual interest. The appointment of the Chairman and Vice-Chairman of any Joint Committee will be decided by the Co-ordinating Board.

6.02 **General role**

Within their terms of reference, Overview and Scrutiny Committees will:-

- (i) review and/or scrutinise decisions made or actions taken in connection with carrying out any of the Council's or partner organisation's functions;
- (ii) make reports and/or recommendations to the full Council and/or the Executive and/or any Committee in connection with any Council functions and the appropriate partner organisation body;

- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy or area committees.

6.03 **Specific functions**

- (a) **Policy development and review.** Overview and Scrutiny Committees may:-
 - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the Executive and Directors about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Overview and Scrutiny Committees may carry out their scrutiny role in a variety of modes:-

Select Committee Mode

- (i) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (ii) question members of the Executive and Directors about decisions or matters within their portfolio or area of responsibility, whether generally or in relation to particular decisions, initiatives or projects;
- (iii) make recommendations to the Executive and/or Council arising from the outcome of the scrutiny process;

Call-In Mode

- (iv) review and scrutinise the decisions made by the Executive and council officers in relation to individual decisions;

Broader Community Role

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
 - (vi) question and gather evidence from any person (with their consent).
 - (vii) Exercise an oversight of the activities of partner organisations including Surrey Police and the Surrey PCT.
- (c) **Community Call for Action.** Exercise the functions relating to Community Calls for Action
- (d) **Finance.** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.
- (e) **Annual report.** Overview and Scrutiny Committees shall report annually to full Council on their workings and make recommendations for future work programmes and amended working methods, if appropriate. This will be discussed at a designated meeting in the year.
- (f) **Officers.** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers allocated to support their work.

6.04 **Proceedings of Overview and Scrutiny Committees**

The guiding principle of the overview and scrutiny function is that the process should make a positive contribution to the work of the Council. Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution. Overview and Scrutiny Committees may authorise Waverley media releases on their work, the content of which is to be jointly agreed by the appropriate Overview and Scrutiny Committee Chairman and Vice-Chairman.

6.05 **Co-ordinating Board**

A Co-ordinating Board, which consists of the Chairmen and Vice-Chairmen of the four Overview and Scrutiny Committees, will meet regularly to facilitate work programming and the allocation of in-depth reviews in accordance with the Terms of Reference attached.

Article 7 – The Executive

STRONG LEADER WITH CABINET MODEL

7.01 **Role**

The Executive will oversee all of the local authority's functions which are within the policy framework and budget set by the Council and are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 **Form and composition**

(a) **Appointments to the Executive**

The Executive will consist of the Leader together with at least 2, but not more than 9, councillors appointed to the Executive by the Leader.

(b) **Appointment of Deputy Leader**

The Leader will appoint the Deputy Leader, to hold office until the end of the term of his/her office as Leader.

The Leader may, if he/she thinks fit, remove the Deputy Leader from office, but must then appoint another person in his/her place.

(c) **Allocation of Portfolios**

The Leader will determine the scope of portfolios and allocate them to members of the Executive.

7.03 **Leader**

The Leader will be a councillor elected to the position of Leader by the Council.

The term of office of Leader starts on the day of his/her election as Leader. The Leader is elected for a four (4) year period, unless his/her term of office as councillor is shorter, in which case the term of office as Leader will be the same as their term of office as councillor.

The Leader will hold office until:-

- (a) he/she resigns from office or is removed from office; or
- (b) he/she is no longer a councillor; or
- (c) is disqualified from being a councillor;

If the current Leader is re-elected, he/she will remain Leader until the date of the next Annual Council Meeting.

Waverley Borough Council shall have the power to remove the Leader by way of resolution by a simple majority.

7.04 **Other Executive members**

| [\[Updated March 2017\]](#)

Other Executive members shall hold office until:-

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) the Leader removes them from their position, either temporarily by suspending them or permanently.

The Mayor and Deputy Mayor of the Council may not be members of the Executive.

7.05 **Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution. All decision taking meetings will be generally open to the public in accordance with the Access to Information Procedure Rules.

~~7.06 **Informal Policy Advice – Special Interest Groups (SIGs)**~~

~~The Executive will be supported in its policy development work by Special Interest Groups (see Special Interest Group Protocol in Part 4 of this Constitution).~~

Article 8 – Regulatory and other Committees

8.01 Regulatory Committees

The Council will appoint the Committees set out in the left hand column of the table Responsibility for Council Functions in Part 3 of this Constitution to discharge the functions described in column 3 of that table.

Currently the Regulatory Committees are:

- Joint Planning Committee
- Area Planning Committees (Central, Eastern, Southern and Western)
- Licensing and Regulatory Committee.

8.02 Audit Committee

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

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

An Audit Committee Charter was adopted in September 2013.

8.03 Terms of Reference

The Terms of Reference are as follows:

1. Corporate Governance

- 1.1 To consider the Council's arrangements for corporate governance and recommend necessary actions to ensure compliance with best practice as set out in the current CIPFA/SOLACE Framework "Delivering Good Governance in Local Government" and any revision thereof.
- 1.2 To maintain an overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour.
- 1.3 To consider the Council's compliance with its own and other published regulations, standards and controls.
- 1.4 To monitor Council policies in "Whistleblowing" and the anti-fraud and anti-corruption strategy and the Council's complaints-handling process.
- 1.5 To monitor the effective development and operation of internal control in the Council with particular reference to risk management.
- 1.6 To approve the Council's Annual Governance Statement.
- 1.7 To consider any reports published by bodies, other than the external auditor, charged with inspecting the Council's performance or arrangements for corporate governance.

- 1.8 To review any issue referred to it by the Head of Paid Service or a director or any Council body.
- 1.9 To request a report from any Head of Service relating to an outstanding internal audit recommendation issue.

2. External scrutiny

- 2.1 To consider whether appropriate accounting policies have been followed in the preparation of the annual statement of accounts.
- 2.2 To consider all communications from the external auditor to the Audit Committee, including:
 - 2.2.1 the audit letter;
 - 2.2.2 the report on issues arising from the audit of the accounts; and
 - 2.2.3 any other reports requested by the Audit Committee from the external auditor.
- 2.3 To consider whether there are concerns that need to be brought to the attention of the Council that arise from:
 - 2.3.1 the audit; or
 - 2.3.2 the accounts.
- 2.4 To consider and, if thought fit, approve the annual statement of accounts.
- 2.5 To comment on the scope and depth of external audit work and to ensure that it gives value for money, especially with regard to reports dealing with [risk] management and performance matters.

3. Internal audit

- 3.1 To consider the Annual Review of the system of Internal Audit.
- 3.2 To consider the Internal Audit Client Manager's Annual Report.
- 3.3 To approve the annual Internal Audit Service Plan.
- 3.4 To consider the current Internal Audit Plan and summaries of internal audit activity by department and consider the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- 3.5 To consider internal audit reports detailing recommendations not implemented within the specified timescale.
- 3.6 To consider proposed internal audit activity and the range of service areas to be covered and the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- 3.7 To commission work from the Internal Audit Service.
- 3.8 To consider any specific internal audit reports requested by the Audit Committee.
- 3.9 To monitor the progress of any specific internal audit projects.
- 3.10 To consider reports dealing with the management and performance of the providers of internal audit services.
- 3.11 To comment on the scope and depth of internal audit work and to ensure that it gives value for money, especially with regard to reports dealing with [risk] management and performance matters.

8.04 Composition of Audit Committee

(a) Membership and Meetings

The Audit Committee will

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

(b) Quorum

The quorum for meetings will be three Councillors.

Article 9 – The Standards Panel

9.01 Standards Panel

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

9.02 Composition

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

- nine councillors [other than the leader, and with a maximum of one member from the Executive];
- two members of a Town or Parish Council in the Council's area who cannot also be a District Councillor, to be appointed until the next full Town and Parish Council elections.

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

(c) **Chairing the Panel.** The Chairman of the Panel shall be appointed by Council. A member of the Executive may not chair the Panel.

9.03 Role and Function

The Standards Panel will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;

- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising on training for councillors and Independent persons on matters relating to the Members' Code of Conduct;
- (f) Where the Monitoring Officer decides a hearing is necessary, complaints received concerning the conduct of Waverley Borough members and determination as appropriate;
- (g) the exercise of (a) to (f) above in relation to the town and parish councils in Waverley Borough and the members of those town and parish councils;
- (h) in the event of a dispute arising from a breach of the Council's Local Protocols, the Standards Panel should use the same processes as breaches of the Code.
- (i) Appointment of a Panel: the Monitoring Officer in consultation with the Chairman of the Standards Panel will appoint Panels of no less than 3 members for the process of hearing and determination of complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council.—The Panels will have the power to determine complaints where these have been referred by the Monitoring Officer.

(j) Review and propose revisions to the Constitution as set out in Article 15.

Article 9A – The Appeals Panel

The Appeals Panel will consist of 12 members of the Council and will operate as a pool from which 4 members can be drawn when it is necessary to convene the Panel. The membership of the Panel of 12 will be politically proportionate.

The role of the Appeals Panel is to determine an appeal against any decision made by or on behalf of the authority. When selecting 4 members to convene the Panel, this shall exclude any member who was originally involved in the decision which is now being appealed.

Article 9B – Independent Panel (for Disciplinary Matters relating to Statutory Officers only)

In the event that a Panel needs to be convened to advise on matters relating to the dismissal of a statutory officer (namely the Head of Paid Service, Chief Finance Officer or Monitoring Officer), two of the Council's Independent Persons will be called

[Updated March 2017]

upon to sit on the Panel, alongside five elected members from the Council's Appeals Panel.

Article 10 – Area Committees and Forums

10.01 Area committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council has appointed four area based Planning Committees with membership proportional to political group representation within these areas to give Local Members a larger say in planning decisions for their areas.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

Article 11 – Joint Arrangements

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate to other local authorities.

Waverley works in partnership with Surrey County Council for the purpose of the Waverley Local Committee to which members of this Council are appointed on an annual basis. There are regular liaison meetings with Town and Parish Councils.

Waverley has agreed to the establishment of a Joint Committee of Surrey authorities to act as the Police and Crime Panel and will appoint one representative to the Panel.

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the Constitution

The ~~Constitution Special Interest Group~~Standards Panel will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The appointed Town and Parish Council representatives will not participate in any discussions at the Standards Panel relating to the Waverley constitution.

Protocol for monitoring and review of constitution by monitoring officer

A key role for the ~~Constitution Special Interest Group~~Standards Panel is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task, the Group may:-

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

Changes to the constitution will ~~only~~ be approved by the full Council after consideration of the proposal by the ~~Constitution Special Interest Group~~Standards Panel; and Executive, as necessary. ~~and, if necessary, Standards Panel.~~

The Terms of Reference for the Overview and Scrutiny Committees set out in Article 6 shall be kept under regular review by the Overview and Scrutiny Co-ordinating board, with delegated authority to revise the Terms of Reference when necessary, subject to an annual report from each Committee to the Council to endorse any changes and amend the constitution accordingly.

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1, with a maximum of the duration of that meeting.
- (c) **Rules capable of suspension.** The following Council Procedure Rule may be suspended in accordance with Article 16.01:

14.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed four minutes without the consent of the Mayor, except in the case of movers of a motion or an amendment, or those having a right of reply when they may not exceed six minutes. There shall be no time limit for the Leader of the Council in moving the Budget at the Council Tax Setting meeting.

16.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

16.03 Publication

- (a) The Head of Policy and Governance will ~~give a printed~~ make available a copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Head of Policy and Governance will ensure that copies are available for inspection at Council Offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee. The Constitution will also be available to view on the Waverley website.
- (c) The Head of Policy and Governance will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

[Part 3 – Responsibility for Functions]

3.1 Portfolio Holders

Each individual member of the Executive will oversee a portfolio of corporate functions, responsibilities and interests in the business of the Executive meetings. Except in cases of urgency, in determining any matter the Executive will consult the relevant Portfolio Holder, and such other bodies or individuals (including members of the Council) proposed by the Portfolio Holder and agreed by the Executive.

The Leader will appoint the Deputy Leader and other Members of the Executive and allocate to them the scope of their portfolios.

The Executive may be required by the Council to reconsider or amend any draft plan or strategy.

The responsibilities for functions and delegations set out in the Constitution are subject to

- The rights of an Overview and Scrutiny Committee to consider a proposal within the policy framework
- The exercise by an Overview and Scrutiny Committee of the power to call in or review Executive functions

3.2 Restrictions

The Executive may not take responsibility for imposing conditions, limitations or other restrictions on any approval, consent, licence, permission or registration granted by the [Joint Planning](#), Area Planning or Licensing and Regulatory Committees.

Where a decision is to be made which would normally relate to an Executive function relating to the budget, or borrowing or capital expenditure, and it is proposed to determine the matter contrary to the budget, or financial management plans, or where the proposed decision is contrary to policy in an adopted plan or strategy, the Executive decision-making process will not apply. The proposal must stand as a recommendation to Council, after consultation with the relevant Overview and Scrutiny Committee.

The responsibilities for functions and delegations set out in this Constitution, in Procedure Rules and in the Scheme of Delegation may only be exercised in accordance with:

- Any statutory restrictions
- The Council's constitution
- The Council's policy framework and any other plans and strategies approved by the Executive
- The in-year budget

- The Waverley Code of Local Government Conduct and the Member/Officer Protocol ~~Code of Conduct for Staff~~
- The Code of Practice on Local Authority Publicity

Adoption of the Constitution

The Council, in adopting this Constitution, delegates the functions referred to in this constitution to be discharged by the bodies or persons and subject to the limitations referred to above at Sections 1 and 2. Any amendment to this Constitution, to the associated Procedure Rules or to the Scheme of Delegation may only be approved by Council.

Part 4

Rules of Procedure

[ADVISORY NOTE: All of the Council Rules of Procedure apply to meetings of full Council. They shall apply, where appropriate and with any necessary modification, to the business of and conduct of meetings of the Executive, Committees, Sub-Committees and Panels, with the exception of Rule 14.5 (when a member may speak again).]

11. QUESTIONS BY MEMBERS

11.1 On reports of the Executive

A member shall not speak more than once on the same motion or amendment, but the mover of any motion may reply to the debate on the motion, or any amendment thereof, and in his reply shall strictly confine himself to answering statements or arguments made in the course of debate and shall not introduce any new matter into the debate.

11.2 Questions on notice at full Council

Subject to Rule 11.4, a member of the Council may ask:-

- the Mayor;
- a member of the Executive;
- the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough.

11.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 11.4, ~~a member of a Committee or Sub-Committee~~any member of the Council may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the Borough and which falls within the terms of reference of that Committee or Sub-Committee.

Any question put under this rule shall be read out by the member without comment or elaboration and shall be answered without discussion or further

question, but the person to whom a question has been put, if for any reason he is unable to answer at the meeting, may undertake to send a written answer to the member asking the question and to any other member on request.

11.4 **Notice of questions**

A member may only ask a question under Rule 11.2 or 11.3 if either:-

- (a) they have given at least **74** clear working days notice in writing of the question to the Head of Policy and Governance; or
- (b) the question relates to urgent matters **that are not already included on the agenda**, they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Head of Policy and Governance by noon on the day of the meeting.

11.5 **Response**

An answer may take the form of:-

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner.
- (d) A record of all questions asked and answers given in accordance with this rule shall be included in the minutes of the proceedings of the Council.

Access to Information Procedure Rules

16. REPORT TO COUNCIL

16.1 When an Overview and Scrutiny Committee can require a report

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:-

- (a) included in the Forward Programme; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Mayor or Deputy Mayor, under Rule 15;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Overview and Scrutiny Chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee or by the Co-ordinating Board.

Executive Procedure Rules

LEADER AND EXECUTIVE

1. HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make Executive decisions?

- (i) the Executive as a whole;
- (ii) an officer with identified delegated powers to act on the Council's behalf;
- (iii) nominated members of the Executive acting under joint arrangements with another local authority.

1.2 The Leader will determine the scope of the portfolios and allocate them to members of the Executive.

1.3 Delegation of Executive Functions

- (a) Where the Executive is responsible for an Executive function, it may delegate further to joint arrangements with another local authority or to an officer of the Council.
- (b) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the Executive, should the occasion arise.

1.4 The Council's Scheme of Delegation and Executive Functions

The Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.
- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated and should a conflict of interest arise, the function will be exercised in the first instance by the Executive and otherwise as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.

1.6 **Executive Meetings – When and Where?**

The Executive will meet for decision making at least 10 times per year and meetings shall commence at 6.45 p.m., or in special circumstances at such hours as the Executive may fix from time to time. Meetings of the Executive should normally finish by 10.00 p.m. but at a convenient time before then, the Chairman may put to the meeting the options of extending the meeting until 10.30 p.m., continuing until its conclusion or adjourning the meeting. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader. Special meetings may be convened to consider specific matters and will be called by the Head of Policy and Governance.

1.7 **Public or Private meetings of the Executive?**

The Executive will conduct all its decision-making business in compliance with the Local Government Acts and Access to Information legislation and all decisions will be taken by the Executive at meetings open to the public. This means, amongst other things, that the requirements of the Access to Information legislation will apply to its decision-making meetings. Public notice of meetings will be given and the agenda and reports will be on deposit for public inspection at least five clear working days before each meeting. Meetings will be open to the public and press, but they may be excluded when confidential or exempt business, as defined in the legislation, is to be transacted. All decisions will be recorded and published, together with the reasons and relevant background papers.

All meetings of the Executive that take any decisions will be held in public, except for those parts of the agenda which are exempt. The Access to Information rules set out in Part 4 will be followed. Any members of the Council may receive briefings from officers which will not be open to the public and press.

1.8 **Quorum**

The quorum for a meeting of the Executive shall be three members.

1.9 **How are decisions to be taken by the Executive?**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution and Council Procedure Rules in Part 4.
- (b)
 - (i) Voting at a meeting of the Executive shall be by vocal consent provided that if one or more members shall indicate dissent then the vote shall be retaken on a show of hands.
 - (ii) In the case of an equality of votes at a meeting of the Executive, the Chairman presiding shall have a second or casting vote.

- (iii) If three members of the Executive request it, the names of those voting for, against and abstaining will be recorded.
- (iv) If any member so desires he may request that it be recorded as to how his vote has been given.

1.10 Principles of Decision-Making

The following conditions should apply to decisions taken by or on the Council's behalf, both in the general public interest and in the interests of ensuring that the Council is able to defend its actions against legal challenge:-

- (a) That members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions;
- (b) That decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation;
- (c) That relevant matters are fully taken into account in decision making;
- (d) That nothing irrelevant is taken into account;
- (e) That the Council's constitution is fully complied with including in particular:-
 - Procedure Rules
 - Contract Procedure Rules
 - Financial Procedure Rules
 - Scheme of Delegation
 - Waverley Local Code of Conduct and the Members' Planning Code of Good Practice
 - Members should make any appropriate declarations of interests
 - Member/Officer Protocol
- (f) That decisions are recorded by officers and published, together with the reasons and relevant background papers.

This means that a clear audit trail of decision-making must be maintained and kept available for future reference. This applies not only to decisions taken by the full Council, the Executive and Committees or Sub-Committees, but also to those taken by officers acting under delegated powers. The Monitoring Officer will be responsible for ensuring that the Council's decision-making

processes meet the requirements of the law and comply with principles of good governance.

The Council recognises the need to have an inclusive approach to member decision-making. Accordingly, reports relating to the budget or policy framework will normally be considered by the appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committee may identify any item from the Forward Programme for overview. The comments of the Overview and Scrutiny Committee will be included in the report to the Executive.

1.11 Information before taking decisions

Before taking decisions or making recommendations to the Council, the Executive will receive a written report. This will include:-

- (a) whether the report contains information which is confidential or may be exempt information;
- (b) the issue to be decided together with analysis/relevant data, any relevant national or regional guidance etc;
- (c) the justification for the recommendation and any other options;
- (d) whether the matter complies with the Council's policy framework and budget, or any subordinate strategies previously approved by the Executive; or whether the decision recommended would amount to a material departure from any of these policies, budgets or strategies;
- (e) any consultations undertaken with other public, private, voluntary and community sector agencies;
- (f) any resource, value for money, equality and diversity, climate change, legal or other implications;
- (g) any collective advice from the Management Board;
- (h) any comments and advice received from Overview and Scrutiny Committees;
- (i) the ward(s) affected;
- (j) a list of the background papers.

The majority of reports will be commissioned by the Leader and/or the Portfolio Holder, and the responsibility for the content of reports will rest collectively with the Management Board. In some cases, the Management Board will initiate a report. In all cases, the Portfolio Holder will be briefed and kept fully informed of the progress of reports at all stages.

The Executive will meet according to a published calendar and the Leader of the Council will be responsible for the overall management and conduct of its business. Together with a Forward Programme covering at least a four month period for the forthcoming business of the Executive, there will be an agenda for meetings of the Executive. This will help to inform the scrutiny process and enable all other members of the Council to be kept up to date on current issues.

Minutes will be kept of each meeting of the Executive. They will be published and made available on the Waverley website and to all members of the Council.

As with decisions taken by the Executive, any decisions taken by officers must be properly documented and should generally follow the principles set out in these procedure rules.

~~1.12 Policy Development – Special Interest Groups (SIGs)~~

~~The Executive may, on the recommendation of the Portfolio Holder, appoint Special Interest Groups to assist it in developing policy, examining specific proposals in depth or progressing major projects.~~

~~These bodies are not decision making and have an advisory role only. A detailed protocol is included in Part 4 of the Constitution.~~

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the absence of both, a person appointed to do so by those present shall preside.

2.2 Who may attend?

Details are set out in the Access to Information Rules in Part 4 of this Constitution. All meetings of the Executive shall be open to the press and public although they may be excluded from a meeting of the Executive, according to law, whenever 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, exempt information would be disclosed to them. In the case of the limited category of confidential information, the public must be excluded from the meeting.

2.3 What business?

At each meeting of the Executive the following business will be conducted:-

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;

- (iii) matters referred to the Executive (whether by ~~a Special Interest Group~~, an Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the ~~SIG Protocol~~, Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

Special meetings convened to consider specific matters will not include public questions or the minutes of the last meeting.

2.4 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the Executive agenda?

1. The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive or any officer in respect of that matter. The Executive Director will comply with the Leader's requests in this respect.
2. The Monitoring Officer and/or the Head of Policy and Governance may include an item for consideration on the agenda of an Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Executive Director, Head of Policy and Governance and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Who can attend and speak at Executive Meetings?

Any member of the Council who is not a member of the Executive shall be entitled to attend any meeting of the Executive but not to vote, but he shall be entitled to speak on any specific item for up to four minutes. Any member wishing to do this shall give notice to the Head of Policy and Governance by noon on the day of the meeting.

2.7 Dispute Resolution

Any dispute about the jurisdiction of the Executive, for example whether or not a matter is delegated to the Executive or contrary to the policy framework or budget, will be referred to the Monitoring Officer and/or the Head of Policy and Governance for advice as appropriate. If it is resolved not to accept such advice, the final decision as to whether the Executive can take a decision is for the Council to decide.

2.8 Urgent Decisions

Any urgent executive or non-executive decisions may be taken by the Executive Director after consultation with the Leader, Deputy Leader and appropriate portfolio holder under the existing provisions in the Scheme of Delegation. Any such decisions will be reported to the next appropriate Committee or Executive meeting.

2.9 Questions by the Public

Members of the public can ask questions at the Executive in accordance with the provisions in Procedure Rules. The Chairman/Leader and/or the Vice-Chairman/Deputy Leader or appropriate portfolio holder should be invited to respond to the question.

Overview and Scrutiny Procedure Rules

1. What will be the number and arrangements for Overview and Scrutiny Committees?

The Council will establish the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. ~~Such committees may appoint sub-committees with the agreement of the Executive.~~

Currently Waverley has ~~two~~ four Committees which take the functions of both Overview and Scrutiny.

The Committee membership is politically proportional and each Committee ~~can~~ will consist of up to 9 members. In addition, substitute members are also nominated and a list of substitute members to be called will be lodged with the Democratic Services Team. ~~This includes the Tenants' Panel representatives.~~

The Chairmen and Vice-Chairmen will be nominated annually at the Council's Annual Meeting or at the Council meeting setting them up.

In the event of a single party Executive and subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to 6 members), the Chairmen of the four Overview and Scrutiny Committees should be nominated by the largest minority group on the Council (this can include non-members of the largest minority group or members of the majority group). The Vice-Chairman of the Overview and Scrutiny Committee shall usually not be from the same political group as the Chairman.

2. Who may sit on Overview and Scrutiny Committees?

All councillors except for members of the Executive may be members of an Overview and Scrutiny Committee. The appropriate portfolio holder(s) can attend an Overview and Scrutiny Committee where matters relating to their area are included in the agenda, and shall have a right to address the Committee. A protocol setting out the rights of attendance is attached as an Annexe.

3. Co-optees

External representatives may be co-opted by the Council as non-voting members onto Overview and Scrutiny Committees on an ad hoc basis, up to a maximum of ~~three~~ two per committee. Although they have no voting rights, they can request that matters of concern to them be placed on the agenda and discussed at the relevant Ccommittee. There will be two Tenants' Panel co-optees appointed to the Overview and Scrutiny Committee with Housing within its remit.

4. **Meetings of the Overview and Scrutiny Committees**

There shall be at least ~~five~~six ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman and Vice-Chairman together of the relevant Overview and Scrutiny Committee or by the ~~proper officer~~Co-ordinating Board if they consider it necessary or appropriate.

In addition, meetings to consider called-in items will be held as and when is appropriate, to coincide with the timescale for scrutiny.

All meetings will be held in open session with the press and public able to attend, except for the consideration of exempt or confidential information. Minutes will be taken by officers at each meeting of the Committees and published. Procedure Rules will apply to the procedures at meetings and the existing scheme for substitutes will continue.

Any member who has a personal or prejudicial interest in any matter on the agenda must disclose the interest and may be required to withdraw from the meeting when appropriate, in accordance with the Waverley Local Code of Conduct.

5. **Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

6. **Who chairs Overview and Scrutiny Committee meetings?**

In the event of a single party Executive and subject to the total number of Opposition members on the Council exceeding 10% of the overall membership (in the current composition of the Council, this would equate to 6 members), the Chairmen of the Overview and Scrutiny Committees should be nominated by the largest minority group on the Council (this can include non-members of the largest minority group or members of the majority group). The Vice-Chairman of the Overview and Scrutiny Committee shall usually not be from the same political group as the Chairman.

Without the consent of the Council, no member can be Chairman or Vice-Chairman of more than one Overview and Scrutiny Committee.

7. **Work programme**

The Overview and Scrutiny Committees/~~sub-committees~~ will be responsible for setting their own work programme within the overall framework set by the Council and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council. ~~Full Council~~The Co-ordinating Board will play a proactive role in

~~may wish to decide~~ing what policy reviews or key issues should be of priority for a Committee in the coming year.

8. **Agenda items**

The Chairman or any member of the relevant Overview and Scrutiny Committee shall be entitled to give notice to the Head of Policy and Governance that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee. On receipt of such a request the proper officer will ensure that it is included on the next available agenda. This does not, however, give any rights to an individual member to commission reports.

If a Chairman, or any other member of an Overview and Scrutiny Committee asks for an item to be included on an agenda, the item will be included as a heading only, and the Committee then has to agree that they would like to see the item added to the work programme. Officers can then proceed with producing a detailed report on the issue for the next appropriate meeting of the Committee or the request can be considered by the Co-ordinating Board.

Any Councillor shall be entitled to give notice to the Head of Policy and Governance of a Councillor Call for Action. The detailed procedures for this are set out in Annexe 3 to the Overview and Scrutiny Procedure rules. The member raising the call for action will have the right to attend the meeting to explain their reasons for the call for action. That item will be the subject of an initial report, if accepted by the Chairman and Vice-Chairman

The Overview and Scrutiny Committees shall also respond, at the earliest occasion consistent with due notice, to requests from the Council and the Executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Executive and/or Council. The Council and/or the Executive shall consider the report of the Overview and Scrutiny Committee at the earliest opportunity.

It is intended that Overview and Scrutiny Committees will be involved from an early stage in the decision-making process, examining issues before decisions are taken by the Executive, rather than only after a decision is taken by operating the call-in procedure. Accordingly, matters relating to the budget or policy framework will normally be considered by the appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committees may identify any item from the rolling programme for overview. The comments of the appropriate Committee will be reported to the Executive.

The Chairmen and Vice-Chairmen will hold a briefing meeting with the appropriate officers to finalise the committee agenda.

Overview and Scrutiny Committees will be serviced by the Democratic Services Team. In-depth review, research and work programming of the

[Updated March 2017]

Committees will be carried out by the Scrutiny Officer in consultation with the Co-ordinating Board.

9. Policy review and development

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Executive for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

~~10. Appointment of Sub-Committees~~

~~Overview and Scrutiny Committees may seek the approval of the Executive to appoint Sub-Committees where they feel a smaller group of members is better suited to carry out a particular task.~~

10. Working Groups

Overview and Scrutiny Committees are able to appoint small informal working groups from within their own membership to research subject areas and report back to the main Committee. These working groups will be supported by a member of the Democratic Services Team and officers from the relevant service area will also be involved to provide information and professional advice/expertise. Attached as an Annexe is a protocol to inform the working practices for informal working groups.

11. Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the proper officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework) and to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Executive, and if one third of the members present request it, then one minority report may be prepared and submitted for consideration by the Executive with the majority report.
- (c) The Council or Executive shall consider the report of the Overview and Scrutiny Committee as quickly as the rules permit.

12. Making sure that Overview and Scrutiny reports are considered by the Executive

All Overview and Scrutiny reports shall be considered by the Executive as expeditiously as possible and at the very maximum, within two months of the work being completed.

13. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.
- (c) Overview and Scrutiny Committees shall have access to all relevant background papers and documents. In the case of any dispute, the Monitoring Officer will adjudicate and if the documents are of a confidential nature, members must respect their confidentiality and use them only in relation to the work of that Committee.
- (d) Co-opted members can have access to papers relevant to the work of their Committee, but excluding any matter relating to an individual, either client or tenant or member of staff.

14. Members and officers giving account – “Select Committee” mode

- (a) Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the Executive Director and/or any senior officer to appear before it to explain in relation to matters within their remit:-
 - (i) any particular decision or series of decisions;
 - (ii) the extent to which the actions taken implement Council policy; and/or

(iii) their performance

and it is the duty of those persons to attend if so required.

(b) ~~Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Head of Policy and Governance. Head of Policy and Governance shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend.^[a2] Attendance by a member of the Executive is now set out in the attached protocol.~~

~~The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.~~

(c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer, arrange an alternative date for attendance as soon as possible.

15. Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend. Attendance is optional.

16. Call-in

Call-in should only be used as a last resort. This can be where members of the appropriate Overview and Scrutiny Committee have evidence which suggests that the ~~Cabinet Executive~~ did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

- (a) When a decision is made by the Executive, or a key decision is made by an officer with delegated authority from the Executive, the decision shall be published, including by electronic means, and shall be available at the main offices of the Council normally within 1 day of being made. Copies of the decision bulletin will be sent to all members of the Council within the same timescale, by the Head of Policy and Governance.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless four members (including Substitute Members) of an Overview and Scrutiny Committee object to it and call it in.
- (c) During that period, the Head of Policy and Governance shall call-in a decision for scrutiny by the committee if so requested by any ~~four~~ three members (including Substitute Members) of the ~~C~~committee where reasons as stated in the call-in form attached at Annexe 2, are valid in the context of Article 13 of the Constitution. Should any Substitute Member be one of those proposing a call-in, he shall have a right to attend the Committee and speak, but not to vote unless he is substituting at that meeting for another Member. The Head of Policy and Governance shall call a meeting of the relevant Overview and Scrutiny Committee on such date as he/she may determine or as reserved in the calendar of meetings, where possible after consultation with the chair of the committee, and in any case within 5 working days of the decision to call-in.

A call-in can only be withdrawn unanimously by those members who requested it.

- (d) As well as reviewing the report submitted to the Executive in fulfilling the scrutiny role, the Chairman and Vice-Chairman acting jointly may require any member of the Executive, the head of paid service and/or any senior officer to appear before it to explain the particular decision or series of decisions, and it is the duty of those persons to attend if so required. The Chairman will notify the people required to attend immediately after the expiry of the call-in deadline.

- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the Executive for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council if outside the policy framework. If referred to the decision maker they shall then amend the decision or not, before adopting a final decision.
- (f) If following an objection to the decision, the Overview and Scrutiny Committee does not refer the matter back to the Executive, the decision shall take effect on the date of the Overview and Scrutiny meeting.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the Executive, together with the Council's views on the decision. The Executive shall choose whether to amend the decision or not before reaching a final decision and implementing it and a meeting will be convened to reconsider the Council request.

“Call-In” Process

The process is proposed as follows:-

Step 1 A list of Executive decisions will be published and notice given that the decisions will be implemented after five working days from date of publication unless called-in under this procedure.

Step 2 Within the period of five working days, ~~four~~ three members of the appropriate Overview and Scrutiny Committee (including Substitute Members) may call a meeting of the Committee to review a decision, by notifying the Head of Policy and Governance by telephone, fax, e-mail or letter. The call-in form attached at Annexe 2 must be completed setting out the reason for the Call-in, Members involved and witnesses to be called and sent to the Head of Policy and Governance.

Step 3 The Overview and Scrutiny Committee will then meet and may resolve by majority vote to:-

- a) propose an alternative course of action, or
- b) request that it be considered and debated by the full Council if the Committee is advised by the Monitoring Officer that the decision is contrary to the Council's policy framework or is unlawful.

Step 4 If the matter is referred back to the Executive, it must reconsider the decision in the light of the reference from the Overview and Scrutiny Committee's decision and would decide whether to change it before adopting a final decision. The Chairman (or Vice-Chairman in their

absence) of the Overview and Scrutiny Committee is able to attend and address the Executive meeting during discussion of the matter.

Exceptions

- (h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-
 - (i) that four elected members (including substitute members) of an Overview and Scrutiny Committee are needed for a decision to be called in and the protocol and form attached at Annexe 2 must be followed and completed;
 - (ii) An Executive decision may only be called-in by an Overview and Scrutiny Committee once.

Call-in and Urgency

- (i) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the Executive, the decision is an urgent one, and therefore not subject to call-in. The Mayor, in conjunction with the Monitoring Officer, must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required, in conjunction with the Monitoring Officer. In the absence of both, the head of paid service or his/her nominee's consent shall be required, again in conjunction with the Monitoring Officer. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17. Procedure at Overview and Scrutiny Committee meetings

- (a) Overview and Scrutiny Committees ~~(and sub-committees)~~ shall consider the following business:-
 - (i) minutes of the last meeting;
 - (ii) declarations of interest;
 - (iii) responses of the Executive to reports of the Overview and Scrutiny Committee;

- (iv) the business otherwise set out on the agenda for the meeting, with overview items identified and taken first, then select committee mode matters;
 - (v) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision; and
 - (vi) questions by the public.
- (b) Where the Overview and Scrutiny Committee conducts investigations in select committee mode (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:-
- (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Committee ~~(or Sub-Committee)~~ shall prepare a report, for submission to the Executive and shall make its report and findings public.

18. Questions by the Public

Unless a special meeting of the Overview and Scrutiny Committee is called, Members of the public can ask formal questions at Overview and Scrutiny Committees in accordance with the provisions in the Procedure Rules. The Chairman and/or the Vice-Chairman should be invited to respond to the question.

19. Matters within the remit of more than one Overview and Scrutiny Committee ~~-Invitation of Chairman of other Committee to Participate~~

Where an Overview and Scrutiny Committee wishes to conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other Overview and Scrutiny Committee, then the Co-ordinating Board will agree the arrangements in advance of the matter being reviewed. ~~Committee conducting the review shall invite the Chairman and Vice-Chairman of the other committee (or his/her nominee (s)) to attend its meetings when the matter is being reviewed.~~

~~[updated July 2016]~~

[Updated March 2017]

ANNEXES

WAVERLEY'S PETITIONS SCHEME

CALL-IN PROTOCOL FOR OVERVIEW AND SCRUTINY COMMITTEES

[Terms of Reference of Co-ordinating Board](#)

[Protocol for Attendance at the Executive and Overview and Scrutiny Committees.](#)

[Protocol for Informal Working Group Arrangements.](#)