

# **WAVERLEY BOROUGH COUNCIL**

## **STANDARDS COMMITTEE**

**12 MARCH 2019**

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### **Title:**

#### **SCHEME OF DELEGATION – REVIEW**

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

**[Wards Affected: All]**

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### **Summary and purpose:**

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

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

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

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

### **Equality and Diversity Implications:**

There are no equality and diversity implications.

### **Financial Implications:**

There are no direct finance implications arising from the report.

### **Legal Implications:**

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

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### **Background**

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

2. Waverley adopted a new Scheme of Delegation to Officers on 4 April 2017, based on the principles that the scheme should:
  - Be shorter
  - Be simpler
  - Be easier to understand
  - Facilitate quicker decision-making
  - More easily accommodate future national legislative and local policy changes without necessarily requiring additional specific delegations
  - Increase the quality, integrity, accountability, and transparency of the Council's democratic processes
  - Be endorsed by both Officers and Councillors
  
3. Since its adoption, there have only been relatively minor revisions to the Scheme, which demonstrates that it is meeting day to day operational requirements.

### **Review**

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

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

8B (New!)	<p>Regulation 73 of the CIL Regulations allow the Council to accept the payment of part of a CIL liability in the form of one or more land transfers, representing ‘payment in-kind’. The criteria against which Waverley would assess an offer of such an in-kind payment have been agreed by Council and are set out in the <i>Phasing and CIL-in-kind policies</i>.</p> <p>The delegation to the S151 Officer in consultation with the PFH for Finance, enables any application to pay CIL ‘in-kind’ rather than in cash to be considered and determined.</p>
<b>Head of Customer and Corporate Services</b>	
17. & 17A (New!)	The delegation to the Head of Customer and Corporate Services has been split to include the role of the Investment Advisory Board in making recommendations to the Executive on certain property transactions.
<b>Head of Environmental Services</b>	
18.3	Updating of relevant licensing legislation.
<b>Head of Policy &amp; Governance</b>	
52D (New!)	In cases of prolonged illness or other unavoidable absence, the Head of Policy & Governance would be able to grant a continuing leave of absence to a councillor, to avoid a councillor being disqualified under s.85 of the Local Government Act 1972.
<b>The Borough Solicitor</b>	
77. Revised wording	Under the Data Protection Act 2018, there is no longer an automatic fee for Subject Access Requests, and we are only able to charge where a request is manifestly unfounded or excessive. The revised wording reflects the requirements of the new Act.

## **Conclusion**

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

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## **Recommendation**

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

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## **Background Papers**

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

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**CONTACT OFFICER:**

Name: Robin Taylor  
Head of Policy & Governance

Telephone: 01483 523108  
Email: [robin.taylor@wav@waverley.gov.uk](mailto:robin.taylor@wav@waverley.gov.uk)