

WAVERLEY BOROUGH COUNCIL

STANDARDS COMMITTEE

1 FEBRUARY 2021

Title:

**AMENDMENTS TO THE WAVERLEY CONSTITUTION –
SCHEME OF DELEGATION AND VIRTUAL MEETING PROCEDURE RULES**

Portfolio Holder: Not applicable (non-Executive function)

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

Key decision: No

Access: Public

1. Purpose and summary

This report sets out two matters for consideration by the Standards Committee:

1. Scheme of Delegation - it follows up on the discussion at the Committee's meeting on 5 October 2020, when it considered possible exceptions to delegated authority within the scheme of delegation. The committee asked officers to draft a possible form of wording that would ensure 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).
2. Virtual Meeting Procedure Rules – it proposes an addition to the Virtual Meeting Procedure Rules, to require that participants and observers at council and committee meetings refrain from using the Zoom chat facility other than to draw the attention of the chairman or committee officers to any technical issues.

2. Recommendation

It is recommended that the Committee:

1. Considers whether to recommend 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, by insertion of the following wording:

"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), unless the

committee concerned expressly confirms that the officer may make future decisions under delegated authority.”

2. Considers whether to recommend to Council the adoption of Virtual Meeting Procedure Rule 9, as set out in Annexe 1.

3. Reason for the recommendation

- 3.1 The constraint on the scope of the scheme of delegation has been brought to 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.
- 3.2 The proposed new Virtual Meeting Procedure Rule addresses concerns that officers have about the potential for comments in the Zoom chat facility to distract from the meeting proceedings, and for observers to influence the meeting proceedings in a way that is untransparent.

4. Background

Limitations on the Scheme of Delegation

- 4.1 number of councillors have proposed that there should be a limitation on the scope of the Scheme of Delegation such that 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.
- 4.2 The Standards Committee discussed this at their meeting on 5 October 2020, and resolved that a change to the Scheme of Delegation to limit its scope was needed and that Officers should bring back to the Committee a form of words that had been agreed with the Chairman and Vice-Chairman.
- 4.3 The following wording was proposed. This is the same as the previous wording included within the report but with the addition of the wording highlighted in yellow which has been suggested by the Chairman and Vice-Chairman:

“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), **unless the committee concerned expressly confirms that the officer may make future decisions under delegated authority.”**

- 4.4 The previous report set out a number of issues for the committee to consider before making a change of this type. These all still apply so that advice is replicated again here:
- 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.
 - 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.
 - 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.
 - 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.
 - 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.

Virtual Meeting Procedure Rules

- 4.4 The Virtual Meeting Procedure Rules were agreed by Council on 9 June 2020, to address the way in which the Regulations allowing remote attendance by councillors at meetings would be reflected in Waverley’s own Procedure Rules.
- 4.5 Waverley has successfully held all council and committee meetings virtually, with remote attendance by councillors and officers and members of the public, and webcasting to YouTube. However, the use of the “chat” function by councillors within Zoom during meetings can be distracting and lead to exchanges between councillors that are running in parallel to the open discussion of the meeting. It also makes it harder for the committee officers running the Zoom meeting to identify requests from councillors for help with technology.
- 4.6 Therefore, officers recommend an additional Virtual Meeting Procedure Rule (#9)

relating to etiquette during formal council and committee meetings, as set out in the attached Annexe.

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

N/A

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 and Virtual Meeting Procedures Rules.

Annexe 1. Virtual Meeting Procedure Rules

Background Papers

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

CONTACT OFFICER:

Name: Daniel Bainbridge

Position: Borough Solicitor
Telephone: 01483 523235
Email: Daniel.bainbridge@waverley.gov.uk

Name: Fiona Cameron
Position: Democratic Services Manager
Telephone: 01483 523226
Email: fiona.cameron@waverley.gov.uk