

WAVERLEY BOROUGH COUNCIL

COUNCIL

20 APRIL 2021

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**Title:**

**GOVERNANCE MATTERS**

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**Portfolio Holder:** Cllr John Ward, Council Leader and Portfolio Holder for Policy & Governance

Cllr Paul Follows, Deputy Council Leader and Portfolio Holder for Policy & Governance

**Head of Service:** Robin Taylor, Head of Policy and Governance

**Key decision:** No

**Access:** Public

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**1. Purpose and summary**

1.1 The purpose of this report is to propose a number of governance changes that are considered to be in the best interests of the Council in order to fulfil the Corporate Strategy 2020-2025, adopted in October 2020. The proposed governance changes seek to respond to and achieve the Council's vision as set out within that strategy, in particular the need to promote:

- 'Open, democratic and participative governance'; and
- 'An effective strategic planning and development management which supports the planning and infrastructure needs of local communities'.

1.2 Shortly after the formation of the new Executive, an informal cross-party working group was formed to review the Council's governance arrangements. The group sought to research and consider options and/or proposals for new or revised governance arrangements that would be lawful, accessible, modern and fit-for-purpose and which would promote increased levels of public engagement.

1.3 This group held a number of meetings and considered a range of data and officer reports, including the governance arrangements in place at a number of other Councils. The group achieved the highest degree of consensus in respect of the detail of changes it did not wish to pursue – a transition to a committee system or Mayoral form of local governance – than it did in respect of those it did wish to pursue. However, the group coalesced, to at least some degree, around a number of themes. These were:

- The need for a governance model that is accountable, transparent, efficient and affordable;
- The importance of engaging with members of the community;

- The need to ensure all councillors, executive and non-executive, were fully informed, engaged and involved in the Council's work; and
  - The need to ensure that portfolio holders, as well as overview and scrutiny committees, are fully engaged on policy development matters.
- 1.4 Debates about governance were, to a large degree, put on pause during 2020 whilst the Council concentrated on other matters, not least responding to the Covid-19 pandemic. However, that significant and unexpected situation in itself provides an opportunity to look again with a new perspective on the way the Council operates. During 2020, temporary arrangements were put in place regarding planning committees, allowing the Council to manage its consideration of planning applications in a different way. This report therefore seeks to reopen this important discussion and brings forward a number of recommendations as to what governance changes could be considered.
- 1.5 Accordingly, this report, brought forward after discussion with the Leader, Deputy Leader and Executive, makes one recommendation to recommend that Full Council agrees that the existing, temporary arrangements for planning committees at Waverley (recommendation 1) be now adopted permanently (or until such time as Full Council resolves to make any further changes to them).
- 1.6 At any point in the future, Full Council may either resolve to make further changes to those constitutional arrangements or alternatively may ask the Standards Committee to make recommendations to Full Council for constitutional change.
- 1.7 This report makes three further recommendations, that Full Council agree the principle of a number of governance changes relating to: the Overview and Scrutiny Committees; the Standards Committee and Executive Working Groups (recommendations 2 to 4).
- 1.8 For each of those recommendations, the Executive recommend to Full Council that the Standards Committee be asked to develop and recommend back to Full Council for adoption the necessary proposed constitutional amendments to achieve the proposed change in principle.
- 1.9 Finally, the Executive recommend to Council that it asks the Standards Committee to undertake a comprehensive review of the Council's Constitution and brings any further proposals for change forward to Full Council for consideration (recommendation 5).

## 2. **Recommendation**

The Executive:

### 1. RECOMMENDS TO FULL COUNCIL that

- the temporary WESTERN and EASTERN planning committee arrangements first incorporated into the Constitution on 22 July 2020 by Full Council and extended on 20 October 2020 by Full Council be made permanent (until such time as Full Council resolves to make any further

changes to them) with the current Terms of Reference; and

- the Head of Policy and Governance be authorised to make the corresponding revisions to the Constitution with the Chairman of the Standards Committee.

## 2. RECOMMENDS TO FULL COUNCIL that it

- agrees to the principle of moving to a governance structure whereby Waverley Borough Council no longer operates four overview and scrutiny committees but instead operates *two overview and scrutiny committees*, 'corporate' and 'community', and a new *Housing Landlord Services Board* whilst retaining the existing constitutional ability to establish informal OS working groups (as set out in section 4.2); and
- asks the Standards Committee to develop and recommend to Full Council for adoption the necessary proposed constitutional amendments to achieve this change, including terms of reference for the new committees.

## 3. RECOMMENDS TO FULL COUNCIL that it

- agrees to the principle of moving to a governance structure whereby Waverley Borough Council expands the remit of the existing Standards Committee to become a '*Standards and General Purposes Committee*' which, as well as dealing with the Standards and Constitutional issues it currently does, would also take responsibility for a range of other functions and pick up issues that arise over the course of time that do not obviously sit elsewhere (as set out in section 4.3); and
- asks the Standards Committee to develop and recommend to Full Council for adoption the necessary proposed constitutional amendments to achieve this change.

## 4. RECOMMENDS TO FULL COUNCIL that it

- agrees to the principle of reintroducing the capacity for *Executive Working Groups* to be constituted in order to shape and drive policy development across a range of portfolio areas (as set out in section 4.4); and
- asks the Standards Committee to develop and recommend to Full Council for adoption the necessary proposed constitutional amendments to achieve this change.

## 5. RECOMMENDS TO FULL COUNCIL that it

- Asks the Standards Committee to carry out a general and comprehensive review of the Constitution to ensure it remains fit for purpose and to bring forward to Full Council any proposed constitutional amendments arising from its review (as set out in section 4.5).

### 3. Reason for the recommendation

- 3.1 To provide Full Council with the opportunity to consider what changes, if any, could be made to support the Council in meeting its stated aim of promoting open, democratic and participative governance.

### 4. Background

#### 4.1 **Making existing temporary arrangements with respect to planning committees permanent (or until such time as Full Council resolves to make any further changes)**

- 4.1.1 At the present time, the temporary arrangements put in place with respect to planning committees will fall away after 6 May 2021 and the Council's Constitutional arrangements for considering planning committees (4 separate area committees + 1 Joint Planning Committee) would become the adopted arrangements.
- 4.1.2 Given that the new arrangements appear to have worked well and have arguably provided a more efficient and straightforward way of ensuring planning applications are considered and determined it is judged that there is a case for now adopting these arrangements on a permanent basis.
- 4.1.3 When the temporary EASTERN and WESTERN committee arrangements were put in place, the following paragraph was also adopted as a temporary arrangement.

*'that where an application could be decided under delegated authority were it not for there being a connection with a Member or Officer, then these applications may be delegated to the Head of Planning & Economic Development in consultation with the relevant Planning Committee Chairman and Vice-Chairman, such special delegation expiring with the temporary planning committee arrangements'.*

There is not perceived to be any need to maintain this particular temporary arrangement in the longer term. This temporary clause would therefore fall away from 7 May.

- 4.1.4 Like any element of the Constitution, the Council's arrangements in respect of planning committees only form a permanent part of the Council's agreed governance framework until such time as Council resolves to make any further changes to them. Therefore, the adoption of the current temporary arrangements on a permanent basis does not bind the Council to operate these arrangements indefinitely but does remove the automatic falling away of those arrangements in the near future.
- 4.1.5 If recommendation 5 is agreed by Full Council, then the Standards Committee will undertake a comprehensive review of the Constitutional arrangements and may make further recommendations for change regarding planning committee arrangements alongside any other part of the Constitution.

## **4.2 Proposed changes to overview and scrutiny and housing governance arrangements**

- 4.2.1 Waverley Borough Council is unusual in having quite so many overview and scrutiny committees. In addition, the titles of and the terms of reference for the four current Overview and Scrutiny Committees relate back to the four corporate objectives contained within the 2016 Waverley Borough Council Corporate Plan. There have been two further corporate strategies agreed since that time. It is therefore considered to be timely to review the Council's current structure of overview and scrutiny committees.
- 4.2.2 One of the effects of having terms of reference for overview and scrutiny committees aligned to a corporate plan objectives from five years ago is that it is no longer always immediately clear which matters for attention should appear at which scrutiny committee. When this system was first adopted the Council's service plans were all structured according to those corporate plan objectives. This is no longer the case.
- 4.2.3 It is proposed that a more straightforward approach would be to have two overview and scrutiny committees. One would be internally focused, looking at the Council's corporate functions and how the Council operates. The second would focus on community-facing services. It is also proposed that rather than trying to align with any set of strategic priorities that the committees align with the Council's service delivery structures. On this basis scrutiny activity might be expected to be divided as follows (although the Standards Committee would be asked to consider this and advise on the appropriate constitutional arrangements and wording):

### Corporate O&S

- Policy and Governance
- Finance and Property
- Business Transformation

### Community O&S

- Housing Delivery and Communities
- Housing Operations
- Environmental and Regulatory Services
- Commercial Services
- Planning and Economic Development

- 4.2.4 As well as providing comprehensive Overview and Scrutiny arrangements, the Council needs to respond, in its future governance arrangements, to the separate requirements of the Charter for Social Housing Residents (Social Housing White Paper). It is anticipated that the Regulator of Social Housing will be taking on a proactive regulatory role where it is currently reactive. The Regulator will be undertaking regular inspections of landlords, including local authorities like Waverley, every four years. Other principles of the new regulation will be: an assurance-based approach; Co-regulation and being outcome-focused.
- 4.2.5 The principle relationship will remain between the tenant and the landlord, therefore tenants need will to be actively involved in the new arrangements. It is proposed

that a new *Housing Landlord Services Board* be established as the vehicle for achieving this. If Full Council agrees this new approach in principle, colleagues from the Council's housing teams will be able to advise and guide the Standards Committee in the constitutional arrangements it proposes to establish this new part of the Council's governance processes.

- 4.2.6 There are a number of elements of the Council's existing approach to Overview and Scrutiny that have worked very effectively in the past and officers recommend these components be retained. In particular, it is advised that the ability for informal working groups to be established and to work flexibly on task-and-finish projects before reporting into a public committee be retained.
- 4.2.7 None of these proposals would affect the statutory nor discretionary powers held by Overview and Scrutiny committees at Waverley. The full range of pre- and post-scrutiny modes of scrutiny would still operate but under the auspices of a revised set of committee arrangements.

### **4.3 Proposed changes to Standards Committee arrangements**

- 4.3.1 Many local authorities incorporate within their governance arrangements provisions by which any function of the Council which by statute or regulation is a function not to be the responsibility of an authority's executive, and which is not delegated to another committee or reserved to Council by statute, regulation, or council constitution can be dealt with, as required, by a committee with a 'general purposes' remit.
- 4.3.2 The Council's arrangements do not currently include a committee where such functions may be exercised and this is, in part, why the Council has tended to have new boards or committees established to fulfil specific functions. Arguably, over the longer term this has created a framework of different meetings and boards that is unnecessarily complex and complicated.
- 4.3.3 It is proposed that Full Council agrees in principle to expand the remit of the existing Standards Committee to become a '*Standards and General Purposes Committee*' which, as well as dealing with the Standards and Constitutional issues that are currently within its remit, would also take responsibility for a range of other functions and pick up issues that arise over the course of time that do not obviously sit elsewhere.
- 4.3.4 Examples of matters that might be included in this committee include: councillor learning and development planning and polling places reviews.

### **4.4 Proposed changes regarding Executive Working Groups**

- 4.4.1 At the present time, although the Executive can convene any type of informal working group it chooses to support it in its own policy development work, this fact is not explicitly recognised within the Constitution and it is suggested this should be remedied.
- 4.4.2 This suggested change would not alter the right of Overview and Scrutiny Committees (or informal working groups convened on their behalf) to engage in

policy development work, either at the request of the Executive or because it chooses to do so.

- 4.4.3 However, it would provide a formal and more transparent route for the Executive to follow when it wishes to form a working group with the purpose of pursuing a particular area of research or policy development.

#### **4.5 Proposed comprehensive review of the Constitution**

- 4.5.1 The final recommendation is a general one. It is recommended that the Executive recommend to Council that it asks the Standards Committee to carry out a general and comprehensive review of the Constitution to ensure it remains fit for purpose and to bring forward any further recommended changes to the Constitution for Full Council for its consideration.

- 4.5.2 It is good practice for any organisation to undertake comprehensive and general reviews of key documents such as the Constitution in addition to specific reviews of specific sections of those documents. It is therefore recommended that it would be timely, in addition to recommending the specific changes noted above, for Full Council to ask the Standards Committee to undertake a general and comprehensive review of the Council's Constitution and bring forward any proposals for constitutional change.

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

- 5.1 The proposed governance changes seek to respond to and achieve the Council's vision as set out within that strategy, in particular the need to promote:
- 'Open, democratic and participative governance'; and
  - 'An effective strategic planning and development management which supports the planning and infrastructure needs of local communities'.

### **6. Implications of decision**

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

There are no resource implications arising from these recommendations.

#### **6.2 Risk management**

There are no risk implications.

#### **6.3 Legal**

There are no specific legal implications unless the system of governance changes. For the reasons explained within this report, a system change is not contemplated at this time. The proposed changes set out above will nevertheless need to be legally compliant, and any new arrangements will need to have a basis in the statutory regime that sets down local authority governance arrangements.

## 6.4 Equality, diversity and inclusion

- 6.4.1 There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

## 6.5 Climate emergency declaration

- 6.5.1 Fewer committees would be expected to have a positive, albeit relatively minor, impact on the Council's carbon emissions due to decreased travel by councillors and decreased office energy usage.

## 7. Consultation and engagement

- 7.1 Initial consultation and engagement activity on the question of the Council's governance arrangements was conducted via the cross-party governance working group. The Leader, Deputy Leader and Executive were consulted and engaged on the specific proposals to the Executive contained within this report. Recommendations 2 tot 4 propose consultation and engagement with the Standards Committee if Full Council agrees to the recommendations for change in principle. Recommendation 5 proposes consultation and engagement with the Standards Committee as a first step towards a comprehensive review by Full Council of the Council's Constitution.

## 8. Other options considered

- 8.1 The main alternative option at the present time would be to continue to operate under the governance arrangements set out within the existing constitution. Although incremental changes have been periodically made to the Constitution over time, there has been no significant change to the arrangements it contains (except the temporary / virtual arrangements) for a number of years and therefore these recommendations seek to provide the basis upon which the Executive and Full Council can consider what case there might be for change.

## 9. Governance journey

9.1

Recommendation 1	<ul style="list-style-type: none"><li>• Executive, 6 April 2021</li><li>• Full Council, 20 April 2021 - approval</li></ul>
Recommendations 2-5	<ul style="list-style-type: none"><li>• Executive, 6 April 2021</li><li>• Full Council, 20 April 2021- agreement in principle</li><li>• Standards Committee (date TBC) – develop proposals constitutional amendments</li><li>• Full Council (date TBC) – debate and vote on proposed constitutional amendments</li></ul>



**Annexes:**

None

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**Background Papers**

1. Waverley's current constitution -  
<https://modgov.waverley.gov.uk/ieListDocuments.aspx?CId=361&MId=3672&Ver=4&Info=1>
  2. Waverley Standards Committee, 21 May 2020 'New Planning Committees Temporary Arrangements for 2020/2021' -  
<https://modgov.waverley.gov.uk/documents/s35861/2020-05-21%20New%20Temporary%20Planning%20Committees.pdf>
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Agreed and signed off by:

Legal Services: 24 March 2021

Head of Finance: date

Strategic Director: date

Portfolio Holder: date