

Part 2

Articles of the Constitution

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Article 1 - The Constitution

1.1 Powers of the Council

The Council shall exercise all of its powers and duties in accordance with the law and this Constitution.

1.2 The Constitution

This Constitution, and its Articles, comprises the Constitution of Waverley Borough Council.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of Council decision-making;
- help councillors represent their constituents effectively;
- enable decisions to be taken efficiently and effectively;
- create an effective means of holding decision-makers to public account;
- ensure that no one will review or scrutinise an Executive decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable and that they explain the reasons for decisions; and
- provide a means for the Council to improve its services continually.

1.4 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

Article 2 - Members of the Council

2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 57 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of Waverley Borough area or those living or working in the Borough will be eligible under the law to hold the office of councillor.

2.2 Election and terms of councillors

Election of the Council every four years

Election and terms. The regular election of councillors will normally be held on the first Thursday in May every four years beginning in 2015. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. By-elections will be held for vacancies as they arise.

2.3 Roles and functions of all councillors

(a) Key roles

In accordance with the Waverley Code of Conduct, the Member/Officer Protocol and the Members' Planning Code of Good Practice, and maintaining the highest standards of conduct and ethics, to:

- collectively be the ultimate policy-makers and oversee a number of strategic and corporate management functions
- represent their communities and bring their views into the Council's decision-making process
- deal with individual casework and act if appropriate as an advocate for constituents in resolving particular concerns or grievances
- balance different interests identified within the ward and represent the ward as a whole
- contribute to various forums for decision-making
- be available to represent the Council on other bodies.

(b) **Rights and duties**

- Councillors shall have such rights of access to such documents, information, land and buildings of the Council as are necessary for them to discharge their functions properly and in accordance with the law.
- Councillors shall not make public, information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
- For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors shall at all times observe the Waverley Code of Local Government Conduct and the Member/Officer Protocol set out at Part 5 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

Article 3 – Citizens and the Council

3.1 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:

- i. vote at elections;
- ii. petition to request a referendum for a Mayoral form of Executive
- iii. 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 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 Decisions, what 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 2018;
- 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 ask formal questions at Council, the Executive and 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 10.10].

The Council welcomes participation by its citizens in its work. For further information about citizens' rights, the Chief Executive can be contacted at Waverley Borough Council, The Burys, Godalming, Surrey, GU7 1HR. Telephone: (01483) 523238.

(d) **Complaints.** Citizens have the right to complain to the Council about:

- i. a failure to do something the Council should have done
- ii. something, which the Council has done badly
- iii. unfair treatment from the Council
- iv. something which the Council should not have done.

Citizens also have the right to complain to:

- v. the Council itself under its Customer Charter
- vi. the Local Government and Social Care Ombudsman or the Local Government Housing Ombudsman, after using the Council's own complaints procedures, if they think that the Council has not followed its procedures properly
- vii. the Information Commissioner, after using the Council's own complaints procedures, if they think that the Council has not properly answered a Freedom of Information request or a Data Protection Subject Access Request
- viii. 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.

3.2 Citizen's responsibilities

Citizens must not be violent, abusive or use threatening behaviour to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

Article 4 – The Full Council

4.1 Meanings

(a) **Policy Framework.** The policy framework includes the following plans and strategies:

- Corporate Plan
- Corporate Governance Code
- Civil Emergency Plan
- Capital Strategy
- Financial Strategy
- Treasury Management Strategy
- Corporate Property and Asset Management Strategy
- ICT Strategy
- Waverley Economic Strategy
- Tenancy Strategy
- Housing Revenue Account Asset Management Strategy
- Housing Delivery Plan
- Housing Allocations Scheme
- Homelessness Strategy
- Safeguarding Children and Adults Policy
- Prevent Strategy
- Community Safety Strategy
- Local Plan Part I: Strategic Policies and Sites
- Equal Opportunities in Employment Policy
- Contaminated Land Inspection Strategy
- Surrey Joint Municipal Waste Management Strategy
- Energy Efficiency Plan
- Corporate Communications Strategy

(b) **Budget.**

The budget includes:

- the allocation of financial resources to different services and projects,
- proposed contingency funds,
- the council tax base,
- setting the council tax,
- decisions relating to the control of the Council's borrowing requirement,
- the control of its capital expenditure,
- the setting of virement limits and deciding variations to the budget, and supplementary estimates over £100,000
- setting council house rent levels.

(c) **Housing Land Transfer.** Housing Land Transfer means:

- i. the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or

- ii. to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.2 Functions of the Full Council

Only the Council shall exercise the following functions:-

- (a) adopting and changing the Constitution
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget
- (d) appointing the Leader of the Council for a four year term
- (e) the election of the Mayor and Deputy Mayor
- (f) agreeing and/or amending the Terms of Reference for Committees, deciding on their composition and making appointments to them
- (g) decisions relating to Procedure Rules and Contracts Procedure Rules, and to Local Protocols
- (h) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council
- (i) appointing to joint bodies
- (j) setting the council tax
- (k) agreeing the levels of members' allowances and adopting an allowances scheme under Article 2.5
- (l) changing the name of the area, conferring the title of honorary alderman or honorary freedom of the borough;
- (m) confirming the appointment of the Head of Paid Service and Strategic Directors and making a determination on whether to approve the dismissal of a statutory officer based on the recommendations of a panel
- (n) adding and deleting posts from the agreed permanent staffing levels where the costs of doing so do not fall within existing controllable expenditure budgets and where the changes have financial implications in excess of the Executive's threshold of up to £100,000

- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (p) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Executive
- (q) major new developments which involve the Council in a broader role than solely Development Control
- (r) all other matters which, by law, must be reserved to Council including:
 - i. Functions relating to Health and Safety at Work
 - ii. Functions in relation to Town and Parish Councils
 - iii. Functions relating to local government pensions
 - iv. Adoption and revision of the Codes of Conduct
 - v. Recommendations for delegations to Committees or Officers
 - vi. Electoral matters
 - vii. Decisions relating to diversions of rights of way
 - viii. Decisions to make payments or provide other benefits in cases of maladministration.

4.3 Council meetings

There are four types of Council meeting:

- (a) the annual meeting
- (b) ordinary meetings
- (c) extraordinary meetings
- (d) informal meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.4 Responsibility for functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive.

Article 5 – Chairing the Council

5.1 Role and function of the Mayor

The Mayor and Deputy Mayor will be elected by the Council annually.

The Mayor and in his/her absence, the Deputy Mayor will have the following roles and functions:

5.2 Ceremonial Role

To attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.3 Chairing the Council Meeting

The Mayor and Deputy in his/her absence will have the following responsibilities

- a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary
- b) in accordance with legislation and Procedure Rules, to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community
- c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Executive or hold Committee chairs are able to hold the Executive and Committee chairmen to account
- d) to promote public involvement in the Council's activities
- e) to be the conscience of the Council
- f) to assume any role in resolving disputes given to the Chairman under the Executive Procedure Rules.

Article 6 – Overview and Scrutiny Committees

6.0 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.

The committee membership is politically proportionate. Each Overview and Scrutiny Committee can carry out investigatory and research work as informal working groups, with appropriate officer support, to study and report back to the main Committee on a particular topic. Each Overview and Scrutiny Committee meets five times a year, with additional meetings, if necessary, subject to the agreement of the Chairman and Vice-Chairman.

6.1 Terms of Reference

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

Overview and Scrutiny Committee	Remit (Services areas)
1. Resources	Business Transformation Finance and Property Housing Operations Housing Delivery and Communities [housing related] Policy and Governance
2. Services This Committee will act as the designated Crime and Disorder Committee for the purposes of	Commercial Services Environmental and Regulatory Services Housing Delivery and Communities [non-housing related] Planning and Economic Development

The Resources Overview & Scrutiny Committee may, with the agreement of the Chairman and Vice-Chairman of the Services Overview & Scrutiny Committee, assume responsibility for an item which would normally fall within the remit of Services Overview & Scrutiny Committee if it has substantial revenue or capital implications.

6.2 General role

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

- a) review and/or scrutinise decisions made or actions taken in connection with carrying out any of the Council's or partner organisation's functions
- b) 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
- c) consider any matter affecting the area or its inhabitants
- d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive and/or any policy or area committees.

6.3 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
 - (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
 - (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.

6.4 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.

Article 7 – The Executive

Strong Leader with Cabinet model

7.1 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.

7.2 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.

7.3 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.

7.4 Other Executive members

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.

7.5 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.

Article 8 – Regulatory and other Committees

8.1 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:

- a) Eastern and Western Planning Committees
- b) Licensing and Regulatory Committee, and sub-committees

8.2 Audit Committee

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

- a) Risk management framework
- b) Control environment and arrangements
- c) Financial performance
- d) Non-financial performance (processes and controls)
- e) Financial reporting.

8.3 Audit Committee Terms of Reference

The Terms of Reference are as follows:

(a) Corporate Governance

- i. To review 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.
- ii. To review the Council's compliance with its own and other published regulations, standards and controls, covering both financial and general issues and, if appropriate, make recommendations to the Council.
- iii. To maintain an overview of the contract procedure rules and financial regulations and recommend their adoption to the Council.
- iv. To review Council policies in "Whistleblowing" and the anti-fraud and anti-corruption strategy and the Council's complaints-handling process and recommend any changes to the Council.
- v. To monitor the effective development and operation of internal control in the Council with particular reference to all aspects of risk management, including Waverley's Corporate Risk Registers.

- vi. To review any issue referred to it by the Head of Paid Service or a Director or any other Council Committee.
- vii. To approve the Council's Annual Governance Statement.

(b) External Audit

- i. To consider whether appropriate accounting policies have been followed in the preparation of the annual statement of accounts and to approve any changes to these policies.
- ii. To receive all reports from the external auditor to the Audit Committee.
- iii. To consider any concerns arising from the audit or the accounts and to agree appropriate action to be taken including bringing the matter to the attention of the Council.
- iv. To consider and approve the annual statement of accounts.
- v. 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.
- vi. To make recommendations to Council regarding the appointment of the External Auditor.

(c) Internal audit

- i. To approve the Internal Audit Charter.
- ii. To approve the Annual Internal Audit (Risk-Based) Plan.
- iii. To consider the Internal Audit Client Manager's Annual Report and Internal Audit Opinion.
- iv. To consider the current Internal Audit Plan and summaries of internal audit activity by Service Area and consider the level of assurance this can give concerning the effectiveness of the Council's corporate governance arrangements.
- v. To consider internal audit reports detailing recommendations not implemented within the specified timescale and to agree appropriate action, including requesting a report from any Head of Service relating to an outstanding internal audit recommendation issue.
- vi. To commission work from the Internal Audit Service.
- vii. To monitor the progress of any specific internal audit projects not included in the Audit Plan.
- viii. To consider reports dealing with the appointment, management and performance of the providers of internal audit services.

- ix. 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.

8.4 Composition of Audit Committee

(a) Membership and Meetings

The Audit Committee will

- i. be composed of eight councillors, with no members from the Executive
- ii. 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 and General Purposes Committee

9.1 Standards and General Purposes Committee

The Council will determine the composition of and the role and function of the Standards and General Purposes Committee. The Standards and General Purposes Committee falls within the requirements of the Local Government and Housing Act 1989 for membership to be proportionate to the political composition of the Council.

9.2 Composition

- (a) **Membership.** The Standards and General Purposes Committee will be composed of:
- i. nine councillors [other than the Leader, and with a maximum of one member from the Executive].
 - ii. three substitute members, appointed in accordance with the political proportionality of the council.
 - iii. 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. Town and Parish members will not attend meetings which are considering the Council's constitution; and
- (c) **Chairing the Committee.** The Chairman of the Committee shall be appointed by Council. A member of the Executive may not chair the Committee.

9.3 Role and Function

The Standards and General Purposes Committee will have the following roles and functions:

- A. To review and propose revisions to the Constitution as set out in Article 15.
- B. Ethical framework
 - (a) To promote and maintain high standards of conduct by councillors and co-opted members.
 - (b) To assist the councillors and co-opted members to observe the Members' Code of Conduct.
 - (c) To advise the Council on the adoption or revision of the Members' Code of Conduct.

- (d) To monitor the operation of the Members' Code of Conduct.
- (e) To advise 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, to establish a Panel to hear and determine complaints received concerning the conduct of Waverley Borough members.
- (g) To exercise functions (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 and General Purposes Committee should use the same processes as breaches of the Code.
- (i) To agree arrangements for the selection and interviewing of candidates for appointment as Independent Person(s) (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments.
- (j) To agree allowances and expenses for the Independent Person(s).
- (k) To implement, monitor and review the operation of the Independent Person(s) Protocol.
- (l) To implement, monitor and review the operation of the code of conduct for staff.
- (m) To implement, monitor and review the operation of the Monitoring Officer Protocol.
- (n) To implement, monitor and review the operation of the Protocol on Member/Officer Relations.
- (o) To consider any other matter referred by the Monitoring Officer.

B. General Purposes

- (a) Authority to oversee the Council's arrangements, and make recommendations to Council as appropriate, with regard to non-Executive functions (as defined in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)) which are not otherwise reserved to Council and are not within the terms of reference of any other committee and which are not delegated to an officer.
- (b) To consider any issues which, in the opinion of the Leader of the Council, Chief Executive or Chief Officers, should be referred to the Committee, and to report back decisions and recommendations.

9.4 **Appointment of a Hearing Panel**

The Monitoring Officer in consultation with the Chairman of the Standards and General Purposes Committee will appoint a Hearing Panel of no less than three members of the Committee for the purpose of hearing and determining complaints received regarding member conduct that may have breached the Waverley Code of Conduct, or that of the relevant Town or Parish Council.

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

Article 10 – Area Committees and forums

10.1 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 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

11.0 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 12 – Officers

Terminology

12.0 Management structure

The Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

12.1 Chief Officers. The Full Council will engage persons for the following posts:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers)</p> <p>Provision of professional and legal advice to all parties in the decision making process.</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Planning, including development control, planning policy, housing enabling, regeneration, building control and land charges</p>
Strategic Director (and Chief Finance Officer)	Finance and performance; revenues and benefits; human resources, customer and office services, estate services; Section 151 officer
Strategic Director	Housing functions; economic development and partnerships; environmental health and community safety; engineering and car parking; leisure and youth services, environmental services.

12.2 Chief Executive, Monitoring Officer and Strategic Director

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service and Returning Officer
Head of Policy and Governance	Monitoring Officer
Strategic Director	Chief Finance Officer

12.3 Such posts will have the functions described in Article 12.4–12.6 below.

- (a) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

12.4 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

12.5 Functions of the Monitoring Officer

The list of functions below reflects the statutory duties and powers of monitoring officers:

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards and General Purposes Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high

standards of conduct through provision of support to the Standards and General Purposes Committee.

- (d) **Conducting investigations.** The Monitoring Officer will conduct investigations in accordance with the Council's adopted arrangements for dealing with Standards allegations and make initial decisions not to investigate, and if necessary, commission an investigation. The Monitoring Officer will consult on the Independent Persons at appropriate stages in the process.
- (e) **Proper officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (f) **Advising whether Executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.6 **Functions of the Chief Finance Officer**

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and the elected mayor and will support and advise councillors and officers in their respective roles.

- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- (f) **Audit Committee** – the Chief Finance Officer will act as Lead Officer for the Council’s Audit Committee.

12.7 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.8 Conduct

Officers will comply with the Member/Officer Protocol at Part 5 of this Constitution. In the event of disciplinary action being taken against a statutory officer, this will be conducted in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Article 13 – Decision making

13.0 Responsibility for decision-making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.1 Principles of decision-making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome)
- (b) respect for human rights
- (c) a presumption in favour of openness
- (d) clarity of aims and desired outcomes
- (e) that members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions
- (f) that decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation
- (g) that relevant matters are fully taken into account in decision-making
- (h) that nothing irrelevant is taken into account
- (i) that the Council's constitution is fully complied with including in particular:
 - i. Procedure Rules
 - ii. Contract Procurement Rules
 - iii. Financial Regulations
 - iv. Scheme of Delegation
 - v. The Waverley Code of Local Government Conduct and Waverley Members' Planning Code of Good Practice
 - vi. Members and officers should make any appropriate declarations of interests
 - vii. Member/Officer Protocol.
- (j) that decisions are recorded by officers and published, together with the reasons and relevant background papers.

13.2 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2 will be made by the Full Council and not delegated.
- (b) Definition of Key Decisions:
 - i. an executive decision which is likely to result in the local authority incurring expenditure or making savings of above £100,000.
 - ii. to be significant in terms of its effects on communities living or working in an area comprising two or more wards...”.

(Waverley has adopted a broader approach to including items in the forward programme, with the intention of giving the maximum information and notice to the Overview and Scrutiny arm of the Council of all significant decisions affecting the budget or policy framework.)

A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.4 Decision making by the Full Council

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.5 Decision making by the Executive

Subject to Article 13.8, the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.6 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.7 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.8 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 14 – Finance, contracts and legal matters

14.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

14.2 Contracts

Every contract made by the Council will comply with the Contract Procurement Rules set out in Part 4 of this Constitution.

14.3 Legal proceedings

- (a) The Borough Solicitor is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council;
- (b) If time permits and there is a significant change of circumstances from when the Council took a decision, the Borough Solicitor will report to the Executive on the cost involved; and
- (c) Where a case of urgency arises and the Borough Solicitor considers that such action is necessary to protect the Council's interests, the Borough Solicitor is authorised to institute, defend or participate in any legal proceedings.

14.4 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Borough Solicitor or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with the values set out in Contract Procurement Rules entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

14.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents that in the opinion of the Borough Solicitor should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor or the Head of Policy and Governance.

Article 15 – Review and revision of the Constitution

15.1 Duty to monitor and review the Constitution

The Standards and General Purposes Committee 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 and General Purposes Committee relating to the Waverley Constitution.

15.2 Protocol for monitoring and review of Constitution by Monitoring Officer

A key role for the Standards and General Purposes Committee 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:

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

15.3 Changes to the Constitution

Changes to the constitution will be approved by the full Council after consideration of the proposal by the Standards and General Purposes Committee and Executive, as necessary.

Article 16 – Suspension, interpretation and publication of the Constitution

16.1 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 is 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 16.1:

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.

16.2 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.

16.3 Publication

- (a) The Head of Policy and Governance will 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.