

# WAVERLEY BOROUGH COUNCIL

## COUNCIL

18 OCTOBER 2022

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**Title:**

**Amendments to the Scheme of Delegation**

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**Head of Service:** Robin Taylor, Monitoring Officer

**Key decision:** No

**Access:** Public

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### **1. Purpose and summary**

1.1 Officers have proposed some revisions to the Scheme of Delegation, based on their experience of using the Scheme since it was last reviewed. The Standards and General Purposes Committee has considered the proposed amendments and recommends to Council that the revised Scheme of Delegation be approved.

### **2. Recommendation**

It is recommended that Council approves the proposed revisions to the Scheme of Delegation and that Version 7.1 of the Scheme of Delegation be approved.

### **3. Reason for the recommendation**

3.1 The changes proposed to the Scheme of Delegation have been brought before the committee at the request of officers with a view to streamlining the decision-making process and reducing the administrative burden on officers. It is important that when concern is expressed 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 and General Purposes Committee, the advice of officers is received, and there is an opportunity for the Committee to put forward any recommendations they judge to be appropriate to Full Council for a decision.

### **4. Background**

4.1 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. 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

4.2 Since its adoption, there have only been relatively minor revisions to the Scheme, which demonstrates that it is meeting day to day operational requirements. These revisions are set out in the change log on page 5 of the document. The most recent revisions were made by the Monitoring Officer under his delegated authority (General Principle 6.1.1) to reflect the new Joint Management Team structure, implemented from 1 October 2022. Further changes may be proposed by the new Joint Management Team once it is in place and in that instance, these would come forward to a future meeting of the Standards and General Purposes Committee for consideration.

4.3 The changes proposed for consideration by Council are set out in the table below and relate to the delegations to the Joint Executive Head of Planning Development:

Proposed revision	Reason
Add "...except where the variation proposed relates to the proposed tenure mix and amount of the affordable housing provision." to O.2 and remove reference to Joint Planning Committee.	The exception relating to tenure mix was considered by the Committee in December 2021, however due to an oversight was not recommended to Council for approval. Officers are now recommending that the exception be extended to also include variations which relate to the amount of affordable housing.
Add "...(with the exception of deeds of variation that secure all original clauses, secured for applications under s73 or s73A)." to O2.	To streamline decision-making.
Move O.5 to follow O.2 and renumber accordingly	Both delegations relate to s106 agreements and therefore should be grouped together for ease of reference.
Remove the requirement to consult with the Borough Solicitor on all applications for Certificates of Lawfulness from O.5	To speed up the process and reduce pressure on workloads in legal services. Consultation with the Borough Solicitor would be by exception and restricted to cases where legal input is essential.
Remove the reference to the temporary delegation from O.5 (H).	The proposed change would reintroduce the arrangements temporarily operated during the first year of the Covid-19 pandemic with great success. This change would lessen the number of applications that need to be reported to a Planning Committee, reducing agenda sizes, and speeding up processing of such applications where there is a clear

	<p>connection to a Member or Officer of the Council.</p> <p>In the interests of probity and transparency, the agreement of the relevant Chair, Vice-Chair and Ward Councillor(s) would still be required before a delegated decision is issued and they would be able to refer the item to a Planning Committee if deemed necessary.</p>
Remove the reference to the Joint Chief Executive and the Joint Planning Committee in O.5 (a.2)	This change would remove the requirement to obtain agreement from the Chief Executive, to speed up the process, but would still involve consultation with the relevant Committee Chair.
In O.5 (a.3), should refer to the Chair <b>or</b> Vice-Chair, rather than 'and'.	Correction
Remove O.5 (c) and re-letter subsequent clauses.	This is proposed for deletion as it is covered under O.5 (H).
Replace references to "Chairman" with "Chair" throughout.	The proposed use of gender neutral language throughout (Chair, rather than Chairman; gender neutral pronouns) is in accordance with the Council's adopted Corporate Equality Objectives.

- 4.4 The Standards and General Purposes Committee considered a proposal to increase the threshold for referral to Committee in O.5 (g) from 5 to 10 letters of objection; and from 5 to 10 letters of support. This change was proposed by Officers in order that Ward Councillors are only asked to exercise their judgement in respect of those applications which have generated significant local interest and to seek to reduce the number of applications that are required to be heard by the Planning Committees to those absolutely necessary to be determined in this manner, thereby assisting the speed of determination.
- 4.5 Whilst the Standard and General Purposes Committee noted that the right under O.5 (b) for any Councillor from the relevant Planning Committee to 'call-in' a planning application within three weeks of the publication of the applicable weekly list of planning applications, provided that relevant planning grounds are given, would remain unchanged, the Committee felt that increasing the threshold of representations required for a referral back to the ward councillors unfairly impacted councillors in rural areas where it was less likely that the threshold would be reached due there being lower populations.
- 4.6 The Committee noted that with regard to O.5 (H) delegating authority for determining applications with a connection to a Member or Officer, there was a balance to be struck between efficiency of decision-making and transparency, but on balance were content with the proposed revision.

## **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 financial implications arising from this report.

### **6.2 Risk management**

There are no direct risk management implications arising from this report.

### **6.3 Legal**

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.

### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity and inclusion implications arising from 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 Standards and General Purposes Committee, 3 October 2022  
Council, 18 October 2022.

## **Annexes:**

Annexe 1 – Part 3.1 Scheme of Delegation September 2022 v 7.1 tracked

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## **Background Papers**

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

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