

# **WAVERLEY BOROUGH COUNCIL**

## **COUNCIL**

**13 DECEMBER 2022**

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**Title:**

### **Changes to the Scheme of Delegation - Tree Preservation Orders**

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**Head of Service:** Stephen Rix, Interim Executive Head of Legal and Democratic Services (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 considered the proposed amendments at its meeting on 30 November 2022 and recommends that the Council approves of the revised Scheme of Delegation.

#### **2. Recommendation**

It is recommended that the Council:

1. Notes the changes made by the Monitoring Officer under his delegated authority as set out in the table at 4.2; and
2. Considers the recommendations of the Standards and General Purposes Committee in respect of the proposed revision to the Scheme of Delegation as set out in the table at 4.3 and approves Version 7.3 of the Scheme of Delegation, as set out in Annexe 1.

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

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. 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 correct some functions which were wrongly assigned in the redraft to reflect the new Joint Management Team structure, implemented from 1 October 2022; and to reflect changes in legislation. These changes are set out in the table below for information:

K4	Moved from Executive Head of Regulatory Services	Wrongly assigned in redraft following JMT restructure
L4 and Q1	Updates to the functions which are now split between Executive Head of Environmental Services and the Executive Head of Regulatory Services	Wrongly assigned in redraft following JMT restructure
L5	Moved to Executive Head of Assets and Property	Wrongly assigned in redraft following JMT restructure
N15 (new)	Moved from Executive Head of Environmental Services	Wrongly assigned in redraft following JMT restructure
O4	Delete two instances of "Planning Policy"	Planning Policy now sits with Executive Head of Regeneration and Planning Policy
Q8	Added: xx. Business and Planning Act 2020 L. Pavement Licensing	Missing functions.
Q8 c)	Changed "Licensing and Regulatory Committee" to "Executive"	This is an Executive function.
Q13 (new)	Copied from M1 (Executive Head of Housing)	The whole section originally assigned to Executive Head of Housing in error. Confirmation needed on how many, if any, relate to the Housing Service.
Q13 (old)	Deleted	These grants are no longer available
Q14	Moved to Executive Head of Community Services	Wrongly assigned in redraft following JMT restructure

Q15 (new)	Replaced the word “unfit” with “unsatisfactory”	Fitness is a term no longer used in the sector.
Q16 (old)	Deleted	This loan no longer exists

4.3 The change proposed for consideration by the Standards and General Purposes Committee is set out in the table below:

Proposed revision	Reason
<p>Amend L.3 as follows:</p> <p>“To take action, make decisions (including determining applications for works to protected trees and prior notifications of the intention to carry out works to trees in conservation areas), serve notices and carry out works relating to trees pursuant to the Town and Country Planning Act 1990, the Hedgerow Regulations 1997 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, and any Regulations made in relation to this legislation or any amendments, <b>except for</b> the confirmation or revocation of a tree preservation order where objections have been received <i>shall only be determined under delegated powers after the Joint Executive Head of Environmental Services (or any officer nominated by them) has received written confirmation from the relevant Ward members(s) that they do not wish the matter to be determined</i> <del>which is reserved for decision</del> by the relevant Planning Committee.”</p>	<p>It is considered that the automatic referral to committee for any TPO which has received an objection is unnecessary and slows down decision making. It is therefore proposed to introduce a call-in process for Ward members, where such a TPO will only be determined under delegated authority where the relevant Ward member has confirmed in writing that they do not wish the matter to be determined by the relevant Planning Committee.</p>

## 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)

**Drafted by: Rosie Plaistowe-Melham, Financial Services Manager**

There are no direct financial implications arising from this report. Clear governance structures support the corporate achievement of value for money.

### 6.2 Risk management

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

### 6.3 Legal

**Drafted by: Name, Post**

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 Council, 13 December 2022

### **Annexes:**

Annexe 1 – Part 3 Scheme of Delegation of functions to officers, V.3

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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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Agreed and signed off by:

Legal Services: Name, Post, date

Head of Finance: Name, Post, date

Strategic Director: Name, Post, date