

# ANNEXE 1

## Article 4 – The Full Council

### 4.01 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 Policy
- Community Safety Strategy
- Local Plan 2002
- 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, virements over £50,000 and supplementary estimates over £20,000 except where the supplementary estimate request is for costs arising from either a civil emergency, a planning appeal or a planning enforcement action when the limit is £50,000
- setting council house rent levels.

- (c) **Housing Land Transfer.** Housing Land Transfer means
- (a) 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
  - (b) to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

#### 4.02 **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 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 2.05;
- (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;
- (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:
  - Functions relating to Health and Safety at Work;
  - Functions in relation to Town and Parish Councils;
  - Functions relating to local government pensions;
  - Adoption and revision of the Codes of Conduct;
  - Recommendations for delegations to Committees or Officers;
  - Electoral matters;
  - Decisions relating to diversions of rights of way;
  - Decisions to make payments or provide other benefits in cases of maladministration.

#### 4.03 **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.

#### 4.04 **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 9 – The Standards Panel**

#### 9.01 **Standards Panel**

The Council will determine the composition of and the role and function of the Standards Panel.

#### 9.02 **Composition**

- (a) **Membership.** The Standards Panel will be composed of:-

- nine councillors [other than the leader, and with a maximum of one member from the Executive];
- 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; and

- (c) **Chairing the Panel.** The Chairman of the Panel shall be appointed by Council. A member of the Executive may not chair the Panel.

#### 9.03 **Role and Function**

The Standards Panel will have the following roles and functions:-

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members;
- (b) assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;

- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising 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, complaints received concerning the conduct of Waverley Borough members and determination as appropriate;
- (g) the exercise of (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 Panel should use the same processes as breaches of the Code.
- (i) Appointment of a Panel: the Monitoring Officer in consultation with the Chairman of the Standards Panel will appoint Panels of no less than 3 members for the process of hearing and determination of complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council. The Panels will have the power to determine complaints where these have been referred by the Monitoring Officer.

#### **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 12 – Officers

### TERMINOLOGY

#### 12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts:-

<i>Post</i>	<b>Functions and areas of responsibility</b>
Executive Director (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>
Director of Finance and Resources	Finance and performance; revenues and benefits; human resources, customer and office services, estate services; Section 151 officer
Director of Operations	Housing functions; economic development and partnerships; environmental health and community safety; engineering and car parking; leisure and youth services,

environmental services.

Executive Director, Monitoring Officer and Director of Finance and Resources

The Council will designate the following posts as shown:-

<i>Post</i>	<b>Designation</b>
Executive Director	Head of Paid Service
Monitoring Officer and Returning Officer	Monitoring Officer
Director of Finance and Resources	Chief Finance Officer

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **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.

#### 12.02 **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.

#### 12.03 **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 Panel.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Panel.
- (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.

#### 12.04 **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.

#### 12.05 **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.

#### 12.06 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations 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.

## Part 3

# Responsibility for Functions

### PART 3 : Responsibility for Functions

#### Introduction

Responsibilities for undertaking the functions of the Council as a local authority are either reserved to the full Council (that is, the whole group of 57 members of the authority as a decision making body), or allocated to the Executive or to other Committees of the Council.

Determination of the Council's policy framework and budget, and other constitutional and quasi-legislative functions will remain the responsibility of the full Council.

Where functions exercised involve determining an application from a person for a licence, an approval, a consent, etc., or enforcement actions associated with such functions, they will not be the responsibility of the Executive but will be carried out by Regulatory Committees. Some functions are allocated to the statutory Committees of the Council, that is, those that are required by law to fulfil particular functions, for example, the Licensing and Regulatory Committee and its Sub-Committees.

All other functions not specified as the responsibility of the Council or of particular Committees are the responsibility of the Executive.

Delegation of responsibilities to the Executive Director, Directors, and other officers of the Council will remain as before except that where there is a need for officer consultation with members (for reasons of urgency or any other reason) on any matters the responsibility of the Area Planning or Licensing Committees, consultation will be with the Chairman and Vice-Chairman of the listed Committee and not with the Leader of the Council. In the event that urgent consultation is required and the relevant Committee Chairman or Vice-Chairman is unavailable or barred from consultation by a personal interest, consultation will be with the Mayor or Deputy Mayor.

#### **A. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS**

[N.B. There are policy formulation and regulatory aspects to all functions set out in the table below which would involve consideration by the Executive or Regulatory Committees where appropriate].

<b>Function</b>	<b>Decision making body</b>	<b>Membership</b>	<b>Delegation of functions</b>
Determination of an appeal against any decision made by or on behalf of the authority	Appeals Panel	4 members of the Appeals Panel other than any such member who has taken part in the decision the subject of the appeal	No delegation
Advising on matters relating to the dismissal of a statutory officer (Head of Paid Service, Chief Finance Officer or Monitoring Officer)	Independent Panel	5 elected members of the Appeals Panel and two of the Council's Independent Persons	No delegation