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CONSTITUTIONAL REVIEW WORKING PARTY

11 AUGUST 2015

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Tuesday, 11 August 2015** in the Austen Room, Cecil Street, Margate, Kent.

Membership:

Independent Members: Dr Jonathan Sexton (Chairman) and Mrs Janet Bacon (Vice-Chairman);

Councillors: Elenor, Hayton and Martin

SUPPLEMENTARY AGENDA

<u>Item</u> <u>No</u>	<u>Subject</u>
3.	<u>MINUTES OF PREVIOUS MEETING</u> (Pages 1 - 2) To approve the Minutes of the Constitutional Review Working Party meeting held on 4 August 2015.
4.	<u>MEMBER/OFFICER PROTOCOL</u> (Pages 3 - 20)
5.	<u>CONSTITUTION - PARTS 1 AND 2</u> (Pages 21 - 104)
6.	<u>CONSTITUTION - PART 4 - RULES OF PROCEDURE</u>
7.	<u>WHAT'S NEXT?</u>

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CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 4 August 2015 at 10.00 am in Montefiore Room, Council Offices, Cecil Street. Margate.

Present: Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Independent Member of the Standards Committee)

Councillors: Elenor and Hayton

44. APOLOGIES FOR ABSENCE

There were no apologies.

45. DECLARATIONS OF INTEREST

There were no declarations of interest.

46. MINUTES OF PREVIOUS MEETING

The Working Party AGREED that the minutes of the Constitutional Review Working Party held on 2 September 2014 be approved and signed by the Chairman.

47. MEMBER/OFFICER PROTOCOL

Alex Hallam, Assistant Director of Essex Legal Services outlined the work she had done in reviewing the Member/Officer Protocol.

The Working Party agreed that the Monitoring Officer and Alex Hallam would review the sections of the Member/Officer Protocol highlighted in the meeting and an amended draft showing the proposed changes would be presented at the next meeting.

It was agreed that further consideration should be given to which sections would be best placed in the Constitution and what should be included in the Protocol.

In addition, it was agreed that Parts 1 and 2 of the Constitution would be brought for consideration to the next meeting and that Alex Hallam would give a broad outline of the work undertaken on Part 4.

Meeting concluded : 11.40am

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Protocol on Member/Officer Relations

Introduction

Mutual trust and respect between Members and Staff is at the heart of the Council's good governance. Both are essential if the partnership necessary for the effective and efficient running of the Council is to succeed.

1.0 Definitions

Unless the context indicates otherwise, references in this Protocol to the following terms shall have the following meanings:

- 1.2.1 Member includes a non-elected i.e. co-opted member as well as elected members of the Council.
- 1.2.2 Member body includes the Council, the Cabinet, Scrutiny and Regulatory Committees, and all other committees, sub-committees and panels described in the Constitution.
- 1.2.3 Cabinet Member refers to the leader and other members of the Cabinet under the Council's constitutional arrangements.
- 1.2.4 Officer means all persons employed by the Council.
- 1.2.5 Chief Officer means the Chief Executive and the corporate directors
- 1.2.6 Designated Finance Officer means the Director of Corporate Resources exercising the duties prescribed by law for the financial administration of the Council.
- 1.2.7 Member Liaison Officer means an officer who may be appointed by the Chief Executive to deal with members and their enquiries on specific matters.
- 1.2.8 Monitoring Officer means the Director of Corporate Governance and is the officer with statutory responsibility for ensuring that the Council acts within the law and in accordance with its Constitution.
- 1.2.9 Political Group means any formally recognised group of elected members on the Council who are either members of the same political party or independent members.

2.0 Scope

2.1 This Protocol is designed to:

- Promote trust, openness, fairness and honesty by establishing clear ground rules;
- Define roles so as to clarify responsibilities;
- Avoid conflict;

- Prevent duplication or omission;
- Secure compliance with the law, codes of conduct and the Council's own practising procedures; and
- To lay down procedures for dealing with concerns by Members or Officers.

2.2 The Protocol represents the central element of the Council's corporate governance and provides the framework for dealing with a wide range of circumstances applying to relations between Members of the Council and its Officers.

2.3 This Protocol covers the main issues which may arise in Member/Officer relations but this is not intended to be comprehensive. Members and Officers should seek advice from the [Chief Executive or the](#) Monitoring Officer on any matter not covered by this Protocol or on issues of uncertainty.

3.0 Purpose

3.1 Together Members and Officers combine the essential skills, experience and knowledge to manage an effective public sector organisation. Members provide a democratic mandate to the Council whereas Officers contribute the professional expertise and experience to deliver the policy framework agreed by Members.

3.2 Whilst collaborative working is the accepted norm for Member and Officer relations at the Council it is important to recognise and take account of their different roles. This is important for day to day interaction between Members and Officers and for the public perception of the Council by ensuring transparency between the political role of Members and the professional impartial role of Officers.

3.3 This Protocol is intended as a written guide on the basic elements of the relationships between Members and Officers to fulfil the purposes set out above and as a means of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. This Protocol has been adopted by the Council in order to achieve these objectives and seeks to maintain and enhance the reputation and integrity of local government in general and this Council in particular.

4.0 Status

4.1 This Protocol establishes a set of principles to assist members and officers to work together.

4.2 Members and Officers must at all times observe this Protocol.

4.3 This Protocol is part of the Council's [Constitutional documents](#) and its importance is recognised by its adoption by full Council at its meeting on the day of with the support of all political groups represented on the Council.

5.0 Principles

5.1 As in all effective partnerships Member/Officer relations are based on the following principles:

- Mutual trust and respect of the different roles of Members and Officers;
- ~~A common purpose; providing the best possible service to the residents and other stakeholders of Thanet District Council; and~~
- A commitment to non-adversarial resolution of disputes.

5.2 At the Council mutual respect between Members and Officers is an essential part of the way we work. Conflict and challenge are inevitable and necessary parts of the democratic process in a local authority. Demonstrating mutual respect in instances where Members disagree with specific Council policies or actions demands the highest standards of personal conduct.

5.3 Mutual respect is based upon an understanding of the distinct contributions Members and Officers make in respect with the boundaries between those roles. ~~The~~ A key principle for Officers is ~~now~~ their a political impartiality; they serve the whole Council and not particular groups or Members. This is particularly important for Chief Officers and other senior officers who are prevented by law from political activities beyond party membership.

5.4 Further some Chief Officers hold posts with mandatory statutory responsibilities notably the Chief Executive, the designated Finance Officer and the Monitoring Officer. Further information about this is provided in Article of Part 2 of the Constitution. Members must respect these duties and recognise that these Officers may be required to give advice or make decisions which Members may not agree with or support.

5.5 Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take an early advantage by virtue of their position.

5.6 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate, ~~and serve only as long as their term of office lasts.~~ Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.

5.7 To carry out their duties effectively, Members must have broad access to Council information. The following principles apply here:

- Members' enquiries will be dealt with promptly and effectively and within corporate timescales;
- Members ~~who have~~ access to information will be compliant with their statutory and common law rights (see the access to information procedure in Part ? of the Constitution);
- Officers will not without good reason, withhold information from a Member who is entitled to receive it;
- Where confidential, personal or otherwise sensitive personal information is provided to a Member that Member will not disclose it to any other person, without authorisation.

5.8 The Council has adopted a code of conduct for Members which is set out in Part ? of the Constitution and an employee code of conduct which is set out in Part ?. The Members' code follows the ~~national code which entails based on the~~ general principles governing Members' conduct enshrined in law. These are:

Comment [ECC1]: Have deleted the words rather than trying to find an alternative because the Thanet code actually follows the former legislation.

- Selflessness – serving only the public interest;
- Honesty and integrity – not allowing these to be questioned;
- Not behaving improperly;
- Objectivity – taking decisions on merit;
- Accountability – to the public, being open to scrutiny;
- Openness – giving reasons for decisions;
- Personal judgment – reaching one's own conclusions and acting accordingly;
- Respect for others – promoting equality; avoiding discrimination; respecting others;
- Duty to uphold the law – not acting unlawfully;
- Stewardship – ensuring the prudent use of the Council's resources;
- Leadership – acting in a way which has public confidence.

5.9 The same principles underpin this Protocol ~~and also underpin the code of conduct for officers.~~

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5.10 Until such time as a new national code appears Officers are bound by the Council's own employee code of conduct and in some cases by the codes ~~and of~~ their professional association.

6.0 **Roles**

A quick guide to Member and Officer roles:-

Members	Officers
Democratically elected and accountable to the electorate	Employees accountable to the Council
Community leader for their ward and the district as a whole	Serve the whole Council
Add a political dimension <u>And may take a role as Cabinet member</u>	Impartial
Set policy and strategy	Ensure operation delivery and provide advice

Bound by a statutory code of conduct	Bound by their conduct of employment
Involved in Chief Officer appointments only	Day to day management of staff

6.1 The role of Members

- 6.1.1 Members have a number of different roles and need to be alert to the potential for conflicts of interest which may arise between them. Where such conflicts are likely and Members may wish to seek the advice of senior colleagues, the [Chief Executive](#) [relevant Chief Officers](#), and/or the Monitoring Officer.
- 6.1.2 Collectively Members are the ultimate policy-makers, determine the core values of the Council and approving the Council's policy framework, strategic plans and budgets.
- 6.1.3 Members represent the community, act as community leaders and promote the social, economic and environmental wellbeing of the community often in partnership with other agencies.
- 6.1.4 Every elected member represents the interests of ~~and is an advocate for,~~ his or her ward and individual constituents. He or she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on local bodies.
- 6.1.5 Members are responsible for the decisions taken by Member bodies upon which they sit.
- 6.1.6 Some members may be appointed to represent the Council on local, regional or national bodies.
- 6.1.7 As politicians, elected members will make statements that are representative of the political groups to which they belong.
- 6.1.8 The role of opposition members in offering alternative policies and holding the administration group to account will inevitably involve those ~~mMembers in a challenging decisions sometimes criticising decisions and care should be taken to ensure that such challenge is directed at the Cabinet Member concerned and not at officers who are charged with implementation. taken by the Cabinet and Officers. All Members should take care to direct public criticisms at the Cabinet Members responsible for the service and not at the Officers who have implemented it. This applies irrespective of whether a decision has been delegated to Officers.~~

6.2 The role of Officers

- 6.2.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. ~~in~~ in doing so Officers will take into account all available relevant factors.
- 6.2.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), Officers managing ~~to and~~ provide the Council services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

- 6.2.3 Officers have a duty to implement lawful decisions of the Member bodies ~~and~~ which have been properly approved in accordance with the requirement of the law and the Council's Constitution and duly minuted.
- 6.2.4 ~~The~~ Officers have a contractual and legal duty to be impartial as well as to place their skill and judgement at the disposal of the Council, ~~they—They~~ must not allow their professional judgment and advice to be influenced by their ~~own~~ personal view.
- 6.2.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities and in the best interests of the Council.
- 6.2.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public and advise accordingly.
- 6.2.7 Officers have the right not to support Members in any role other than that of an elected councillor, and not to engage in actions incompatible with its Protocol. In particular there is a statutory limitation on Officers' involvement in political activities from those Officers employed in politically restricted posts.

7.0 Conduct

7.1 Attitude and Behaviour

- 7.1.1 The conduct of Members and Officers should be such as to instil mutual confidence and trust.
- 7.1.2 The key elements are recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other both publicly and privately.
- 7.1.3 Members should be aware that Officers are constrained in the response they may make to public comments from Members. Members should not criticise Officers personally in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces the right of Members to criticise, in a constructive manner, the report or actions of a department or section of the Council where they believe such criticism is well-founded.
- 7.1.4 Discussions and correspondence between Members and Officers should at all times be well-mannered and professional.
- 7.1.5 Informal and collaborative two-way contact between Members and Officers is encouraged, but personal familiarity can damage the relationship as might a family or business connection.
- 7.1.6 Members and Officers should inform the Chief Executive or Monitoring Officer ~~if the latter is not available Monitoring Officer or Chief Executive~~ of any personal relationship between each other which might be seen as unduly influencing their work in their respective roles.
- 7.1.7 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed those concerned should avoid a situation where conflict could be perceived. Specifically a

Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

7.1.8 Members of staff should not discuss with a Member personal matters concerning themselves or another individual employee. This does not prevent them raising on a personal basis and in their own time a Council service related matter with their ward Member.

7.1.9 Members and Officers should respect each other's free (i.e. non-Council) time.

7.2 **Conduct of scrutiny reviews *all O and S meetings and associated business to be included?***

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7.2.1 Directors of services covered in the terms of reference of the Overview and Scrutiny ~~Committees Panel~~ will maintain regular contact with the Chairman of the relevant committee panel usually through regular informal meetings. In consultation with the Chairman it should be the responsibility of directors to ensure that those Members of the Overview and Scrutiny Committee Panel who need to know of matters being proposed or brought forward for executive Cabinet decision-making well in advance.

7.2.2 The Chairman of the Overview and Scrutiny ~~Committees Panel~~ should maintain regular contact with the Officers providing the principal support to the overview and scrutiny function staff in consultation with the Chairman. It should be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

7.2.3 The Overview and Scrutiny Panel ~~A Scrutiny Committee~~ or its Chairman acting on its behalf may require Officers to attend scrutiny meetings. Members should not normally expect junior officers to give evidence but directors of services will be expected to comply with the (scrutiny procedure rules). All requests should be made to Chief Officers in the first instance.

7.2.4 When making requests for Officer attendance, scrutiny members shall have regard to the work load of Officers.

7.2.5 It is recognised that Officers appearing required to appear before the an Overview and Scrutiny Committee Panel may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances an Officer may have a conflict of interest although not a personal interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate research and advice may be sought elsewhere.

7.2.6 Subject to the provisions of 7.2.5 Officers should be prepared to justify advice given to a Member body even when the advice is not accepted.

7.2.7 Officers must also be prepared to justify decisions they have taken ente-under delegated powers.

7.2.8 In giving evidence Officers must not be asked to give political views.

7.2.9 Officers should respect Members in the way they respond to Member's questions.

7.2.10 Members should not question Officers in a way that could be interpreted as harassment neither should they ask about matters of a disciplinary nature.

7.2.11 Scrutiny proceedings must not be used to question the capability or competence of Officers. Chairman and Members need to make a distinction between reviewing the policies and performance of the Council in its services and ~~appraising a place in~~ the personal performance of Officers. The matter is not an overview and scrutiny function.

7.2.12 In exercising the right to call in a decision of the Cabinet scrutiny Members must seek Officer advice if they consider the decision is contrary to the Council's approved budget or policy framework or is unlawful.

8.0 Decision making and matters specific to ~~executive Cabinet~~ business

8.1 Roles

8.1.1 ~~Cabinet Executive~~ Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Directors will be responsible for instructing staff to implement the ~~Executive's Cabinet's~~ decisions.

8.1.2 Cabinet members are responsible for providing leadership and direction on policy matters. Day-to-day managerial and operational decisions on the delivery of services should remain the responsibility of the Chief Executive and other officers

8.1.3 Cabinet members will routinely be consulted as part of the process of drawing up proposals for consideration on an agenda for a forthcoming meeting, but it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or senior officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Cabinet member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

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8.1.24 In addition to individual Members of the ~~Cabinet, Executive, the Chief Executive,~~ Directors (including the Section 151 Officer) and the Monitoring Officer have the right to submit papers to the ~~Executive Cabinet~~ as a whole or to individual ~~Executive Cabinet~~ Members for consideration.

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8.1.35 Before any formal decisions are taken by the ~~Executive Cabinet,~~ the Section 151 Officer) and the Monitoring Officer and the Director(s) of the service involved must be consulted. This is to ensure that budget holders are aware of the proposed decision, that the decision's legal implications can be considered, ~~that have~~ the opportunity to offer advice has been identified, and that officers are subsequently able properly to authorise the various financial and legal transactions and requirements needed to implement decisions.

8.1.46 The Chief Executive, Directors and ~~Executive Cabinet~~ Members shall agree mutually convenient methods of regular contact, in the form of briefings as set out in [4.3?] above, regular meetings between ~~Executive Cabinet~~ Members and the Directors of their respective portfolio areas, and/or any other appropriate method which complies with law and the Constitution. Before taking any formal decisions, the ~~Executive Cabinet~~ will seek appropriate professional advice including, without exception, the

Chief Executive, the Monitoring Officer and Section 151 Officer, and will not direct Officers in the framing of recommendations.

8.1.57 When formal advice is given by the Chief Executive, Monitoring Officer and/or the Section 151 Officer in the furtherance of their statutory duties, Members should be expected to follow it. However, it is recognised that circumstances may arise where they may wish to ignore such advice. Members may make decisions contrary to the advice of officers generally, and Statutory Officers in particular, but should note the following:

- (a) Decisions so made may be in breach of the Council's legal duties, particularly the Public Sector Equality Duty;
- (b) Decisions may have unforeseen, negative consequences on the local community, which officers may not have had an opportunity to consider in advance of a decision being made contrary to their advice;
- (c) Even where a decision made by Members contrary to officer advice is not contrary to legislation, it could still render the Council subject to successful legal action, further to a judicial review, action for breach of contract or action for negligence, or all three;
- (d) Such successful action could make the Council liable for damages (whose quantum may not, at the point of decision, be apparent) and against which the Council may not be insured;
- (e) Such successful action would result in reputational damage to the Council and a broken relationship of trust with any person adversely affected by the decision.

8.1.68 Where, notwithstanding the above, Members wish to make a decision contrary to advice, all correspondence relating to the decision must be transacted in writing, including the officer advice itself and the reasons given by Members for acting against it.

8.2 — Information

~~8.2.1 Any document which is held by the Executive, and which contains information, explanation or advice which relates to any issue due to be discussed at a public meeting, must be available for inspection by any Member. This includes any information which relates to business which may have been transacted at a private meeting.~~

~~8.2.2 Members are not entitled to access any information which is exempt from publication under Part 1 of Schedule 12A to the Local Government Act 1972, other than where information would be covered by provisions relating to commercial confidentiality, and where the document(s) relate to council contracting.~~

~~8.2.3 Sections 8.2.1 and 8.2.2 above are subject to the general provisions on information provision in Section 2.~~

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Comment [AH2]: Query whether this is in TDC access to information rules

8.32 Decisions by individual members

- 8.32.1 An individual ~~Cabinet Executive~~ Member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are informed. There is a particular requirement to involve other ~~Executive Cabinet~~ Members on cross-cutting issues.
- 8.32.2 Executive Members when making decisions must state the reasons for those decisions in the written record.

8.43 Decisions made by officers under delegated powers

- 8.43.1 Officers taking decisions under their delegated powers must **exercise their judgement and** consult with the relevant **Cabinet Member (s) Executive Member(s)** in advance when the matter to which the decisions relate are likely to be sensitive or contentious, where the Officer considers that the decision may have wider policy implications, or where the **Cabinet Member (s) Executive Member(s)** has/have previously informed the Officer that particular decisions or classes of decisions may have such implications.
- 8.43.2 Officers are responsible for implementing Member decisions and in the case of Cabinet decisions Chief Officers will be responsible for instructing staff to implement decisions.
- 8.43.3 Apart from the formal decision making process, Officers work to the instruction of their managers and not individual members. Officers will try to comply with all reasonable requests from Members but Members cannot instruct Officers to do any piece of work or take any course of action.
- 8.43.4 Officers must observe the requirements set out in the office of delegations in Part ?, Schedule ? of the Constitution when taking decisions and ensure that decisions falling outside it are referred to the appropriate Member body for decision unless action is to be taken under standing order ?
- 8.43.5 When taking decisions under their delegated powers Officers should be aware of decisions which are likely to be sensitive or contentious. In such cases Officers should inform the relevant Cabinet Member(s) and where appropriate ward Members of their intentions in advance.
- 8.43.6 Officers should also keep Cabinet Members informed in advance of any decisions which they take that have wider policy implications.
- 8.43.7 While Officers will support, advise and respond to Members' requests they must not be asked to exceed the bounds of authority they have been given by their manager.

8.24 Decisions affecting Council staff

- 8.24.1 The role of Members in employment matters are limited to:
- Determining significant human resources policies and conditions of employment;
 - The appointment and discipline of Chief Officers;

Comment [ECC3]: Need to renumber throughout

- Hearing and determining appeals.

| 8.24.2 Members shall not act outside these roles.

| 8.24.3 Officers are responsible for the appointment and discipline of all other Officers.

| 8.24.4 In participating in the appointment of Chief Officers, Members should:

- Respect the confidentiality of the process and in particular the identity of the candidates.
- Remember that the sole criterion is merit;
- Never canvass support for a particular candidate;
- Not take part where one of the candidates is a close relative or friend;
- Not be influenced by personal preferences; and
- Not favour a candidate by giving them information not available to the other candidates.

| 8.24.5 Officers will not seek any Members' support in any employment matter.

| 8.24.6 When discussing or making decisions about industrial relations matters, Members must remember that they represent the Council as an employer and are not a representative of the employees. If a Member considers that they cannot undertake this task from this perspective they should withdraw from this role.

9.0 Support for Members

9.1 Members' enquiries and access to Officers

9.1.1 Members enquiries may be made by any means including verbally, email or in writing.

9.1.2 Members should normally direct their requests and concerns in relation to policy, spending and other major issues to the relevant ~~Director in the first instance. Chief Officer or to a specific Member Liaison Officer within a department.~~ Failure to do so would have the effect of depriving Members of formal, informed and accountable advice they have a right to expect from ~~senior officers Chief Officers~~ and which they have a duty to consider.

| 9.1.3 Approaches by Members to other Officers, ~~are~~ proper ~~way-when~~ they are seeking clarification of a response from that Officer or where the nature of the enquiry is routine and requires a detailed knowledge of the issues.

9.1.4 Members' enquiries will be dealt with promptly and effectively. A substantive response to a Member enquiry should be sent within ten working days of receipt.

- 9.1.5 Officers receiving Member enquiries should ensure that if they are absent or unavailable for more than one working day that their email is checked by a colleague. Out of office email replies should always give an alternative contact.
- 9.1.6 If it is not possible to respond within ten working days, Officers must explain in writing:
- The reason for the delay;
 - What action is being taken to pursue the enquiry; and
 - A deadline by which a substantive response will be sent.
- 9.1.7 Members' enquiries which are in fact constituent complaints will be handled under the Council's complaint procedure.
- 9.1.8 The Chief Executive and corporate directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately by the department.
- 9.1.9 In seeking to deal with constituent's queries or concerns Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale and may need to seek instructions from their manager. Where an enquiry imposes a disproportionate burden on Officers' workloads, this should be explained and discussed with the Member concerned and Chief Officers to agree an alternative deadline or response.
- 9.1.10 This Members' enquiry procedure supplements but does not replace Members' statutory and common-law rights to information.
- 9.1.11 Co-opted and independent Members' rights to access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.
- 9.1.12 An Officer should not copy correspondence which they have had with a Member to any other Member unless:
- That Member agrees; or
 - The other Member is entitled to the information under the Freedom of Information Act 2000 or the Data Protection Act 1998; or
 - The correspondence from the Member includes a circulation list with other Members' names on it when the response can be copied to the persons on the list; or
 - A response has been given to a question raised at a meeting of a Member body when the response can be copied to other Members. The above does not prevent an Officer copying correspondence to other Officers unless there are confidentiality issues.

A member may copy correspondence which they have had with an Officer to other Members and third parties unless it contains confidential personal or otherwise

sensitive information. For the avoidance of doubt correspondence containing such information should state that it is confidential.

9.2 Briefings for political groups

9.2.1 Chief Officers may be asked to contribute to deliberations of matters concerning Council business by political groups.

9.2.2 Chief Officers have the right to refuse such requests and will normally not attend a meeting of a political group where some of those attending are not Members of the Council.

9.2.3 Officer support will not extend beyond providing the factual information or professional advice in relation to matters of Council business. Chief Officers must not be involved in advising on matters of party business and therefore should not be expected to be present at meetings or parts of meetings where such matters are to be discussed.

9.2.4 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of a Chief Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

9.2.5 Where Chief Officers provide factual information and advice for a political group in relation to a matter of Council business this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

9.2.6 It must not be assumed that a Chief Officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.

9.2.7 Chief Officers will respect the confidentiality of any political group discussions at which they are present and unless requested to do so by that political group will not relay the contents of such discussions to another party group or to any other Member. This shall not prevent a Chief Officer providing a feedback to other Chief Officers.

9.2.8 In their dealings with political groups Chief Officers must treat each group in a fair and even-handed manner.

9.2.9 Members must not do anything which compromises or is likely to compromise Chief Officers' impartiality.

9.2.10 ~~The duration of a Chief Officer's attendance at a political group meeting will be at the discretion of the group but a Chief Officer may leave at any time if they feel it is no longer appropriate to be there.~~

9.2.10 A Chief Officer accepting an invitation to the meeting at one political group shall not decline an invitation to advise another group about the same matter. They must give substantially the same advice to each.

9.2.11 Only a Chief Officer or their nominee shall be entitled to attend a political group meeting.

Comment [ECC4]: I have deleted this on the basis that on reflection the requirement for fairness and even handedness in 9.2.8 covers it?

- | 9.2.132 A Chief Officer should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- | 9.2.143 No Member will refer in public or at meetings of the Council to advice or information given by Chief Officers to a political group meeting.
- | 9.2.154 At political group meetings where some of those present are not members of the Council care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

9.3 Access to information

- 9.3.1 To carry out their duties effectively, Members must have broad access to Council information. This is a complex area which is subject to a wide range of legislation as well as the common law and the detailed rules are set out in the access to information procedure rules, Part ? of the Constitution (and standing order ?). The remainder of this section deals with some specific points.
- 9.3.2 Members' access to information will be compliant with their statutory and common law rights.

The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents as far as their access to the documents is reasonably necessary to enable them to perform their duties as a Member of a Council. This principle is commonly referred to as the "need to know" principle.

The exercise of this common law right depends therefore upon the Members' ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Chief Officer whose department holds the document in question (with advice from the Monitoring Officer).

In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.

- 9.3.3 Officers will not without good reason withhold information from a Member who is entitled to receive it.
- 9.3.4 Any disputes relating to access to information will be referred to the Monitoring Officer for determination.
- 9.3.5 Where confidential personal or otherwise sensitive information is provided to a Member they will not disclose it to any other person without authorisation.

9.4 Use of Council resources

9.4.1 The Council provides all Members with services such as ~~typing, printing and photocopying and goods such as stationery and~~ computer equipment to assist them in discharging their role as Members. These ~~goods and services~~ are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

9.4.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources particularly:

- Where facilities are provided in Members' homes at the Council' expense and regarding ICT; and
- Regarding ICT use and security.

9.4.3 Members should not put pressure on Officers to provide resources or support which Officers are not permitted to give. Examples are:

- Business which is solely to do with a political party;
- Work in connection with a ward or constituency party political meeting;
- Electioneering;
- Work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- Private personal correspondence;
- Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- Support the Member in their capacity as a councillor for another local authority.

10.0 Public relations

10.1 Relations with the media

10.1.1 The Media and Communication Team is responsible for:

- Making official press/media statements relating to the function and business of the Council, consulting with the relevant Cabinet Member, Committee Chairman or Officer as appropriate; and
- Dealing with day-to-day media enquiries.

In making a press or media statement regard must be had to the law on Local Authority publicity and the relevant code of practice.

10.1.2 Cabinet Members and Committee Chairman may also make statements to the press/media on Council matters and they represent the Council in media interviews. If a Cabinet Member or Committee Chairman wants to speak to the press or media in

a personal capacity or as a representative of their political group they should make this clear at the outset.

10.1.3 If other Members wish to speak to the media they will do this in a personal capacity or as a representative of their political group.

10.1.4 Chief Officers (or their nominees) may deal with any request for information or questions asked by the press/media and may represent the Council in media interviews.

10.1.5 Any Member or Officer who speaks to the press or media on an issue should:

Comment [AH5]: Include requirement to talk to comms team in advance?

• Consult with the Communications Team for the Council in advance of speaking to the press or to the media

- Be sure of what they want to say or not say;
- Consider the likely consequences for the Council of their statement;
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant members; and
- Take particular care in what is said in the run-up to local or national elections to avoid giving the impression of electioneering unless they have been contacted as an election candidate or political party activist.

10.1.6 Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

10.1.7 Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.

10.1.8 Likewise Officers will inform the Council's communication and media section of issues likely to be of media interest when they have been contacted by the media since that unit is often the media's first point of contact.

10.2 Correspondence

10.2.1 Correspondence between an individual Member and an Officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied this should always be made explicit and there should be no "blind" copies.

10.2.2 Official letters written on behalf of the Council should normally be in the name of the relevant Officer.

10.2.3 The Leader may initiate correspondence in their own name.

10.2.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.

10.2.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

10.2.6 Correspondence between Members and staff should reflect mutual trust and respect which is essential to the relationship.

11.0 What to do when things go wrong

11.1 Procedure for Officers

From time to time the relationship between Members and Officers may become strained or break down. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have recourse to the Council's Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of the basis for a grievance or complaint being found, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will refer it to the Standards Committee for consideration and determination.

11.2 Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Head of Service. Where the Officer concerned is a Head of Service or Director of Service the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Director of Finance and Corporate Services. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure and, where appropriate, act in accordance with a report of a "designated independent person" (see Prescribed Standing Order 10). [Note – check reference to elsewhere in the document on completion]

Some more general points:

- In the meeting I also suggested that you give consideration to particular reference in the protocol to the duties of members on planning/ licensing/ other regulatory committees in terms of propriety of decision-making. Note, for example, that the previous draft had a line at the end of para 4.2.4 which aimed to go some way in that direction
- The previous draft, in the introduction, said that the protocol was designed to 'avoid conflict, and to manage it where it occurs';- the second part of this clause is omitted in the new version and I wasn't sure why
- The previous draft, in the definition, said 'Officers and staff mean all persons employed by the Council either directly or through contractors';- the current draft removes reference to contractors – are you sure you wanted that?
- Para 3.1.5 of the draft protocol which came to the Board in April has a number of elements relating to members' responsibilities, not all of which have carried through to this draft, which I would suggest are helpful- if you have gone through a thought process which has led you to decide these aren't necessary, fine, but I wanted to check this wasn't an oversight
- In the previous draft, at 4.0 there was a helpful line – 'The general rule to be applied is that information will be available to Members unless there is a specific reason why it needs to be withheld.'- I would suggest this is a useful tone to set, and slightly wider than

the current wording at 8.2. The tone of this whole section, and that at 9.3, has changed from one which is focused on transparency with appropriate limitations, to one which appears to be starting from the point of view of 'why do you need access to this?' It is a very subtle point, but given the sensitivity of this issue in Thanet previously, I would suggest that the tone you set in documents such as these influence the wider culture. I appreciate that there have been very good reasons why the council has taken the decisions it has about access to information in the past, but would suggest you have an opportunity here (and in many other ways) to set a tone of transparency, which I don't think the current drafting fully does

- In section 4.3 of the previous draft there was a bit about officers' role in briefing chairs of committees etc – I couldn't see this in the new draft (apologies if I missed it). While you might think this provision was 'business as usual' and therefore didn't need stating there was an important bit about confidentiality of information given in those briefings which you might not want to lose
- There was a para at section 6.2.3 of the previous draft which stressed the need to carry out scrutiny work in a consensual manner, and highlights the need for pre-meeting discussions which will secure maximum value for the committee. This had more of an enabling tone, rather than being restrictive/ identifying what people must/ must not do, and was designed to facilitate a more constructive view of scrutiny. I commend it to you!
- I'm presuming that the detail that was in the previous draft on dealing with the media has been removed because it duplicates the council's own procedure note on members/ officers and media handling – if so, then it would be good if the protocol gave a reference to this – and if the council doesn't have one then I suggest it needs one!
- The previous version had a section on visits by members to council sites – I'm not sure why this would have been removed but am flagging it up in case it was an oversight

Part 1 - Summary and Explanation

1.0 — The Council's Constitution

~~The Thanet District Council first~~has agreed a new constitution ~~as required by the Local Government Act 2000 in 2002. The first comprehensive review of that document was undertaken in early 2004 as a result of which the Council agreed this revised Constitution on 6 May 2004. A number of changes were made as a result of decisions of Council in 2005 and 2006. It~~ which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. ~~The Council will continue to monitor the operation of this revised Constitution and may from time to time make further changes.~~

~~The Constitution is divided into 16 articles which set out the basic rules governing the Council's business, and sets out who is responsible for the various functions of the Council. [See Parts 2 and 3.]~~

~~More detailed procedures, rules and codes of practice are included~~provided in separate rules and protocols in other parts of this Constitution. ~~parts along with other information to help enable citizens and other stakeholders understand how the Council operates. [See Parts 4 to 7.]~~

2.0 — What's in the Constitution?

Article 1 of the Constitution commits the Council to exercise all its powers and duties in accordance with the law~~provide clear Leadership to the community and to continuously improve the delivery of services to the community.~~ Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and Sscrutiny of decisions (Article 6)
- The Executive ("The Cabinet") (Article 7)
- Regulatory and other Gcommittees in Council's operating executive arrangements (Article 8/7)
- The Standards Committee (Article 9/8)
- Area [Gcommittees (Article 10/9)
- Joint arrangements (Article 11/10)
- Officers (Article 12/11)

Comment [AH1]: Check the numbers of articles correlate with the text.

- [Decision making \(Article 13/12\)](#)
- [Finance, contracts and legal matters \(Article 14/13\)](#)
- [Review and revision of the Constitution \(Article 15/14\)](#)
- Suspension, interpretation and publication of the Constitution (Article 16/[15](#))

3.0-How the Council operates

The Council is composed of 56 Councillors elected every four years. Councillors are democratically accountable to residents of their [ward](#). The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

At the Annual Meeting of the Council in the year of an ordinary election of Councillors, the Council will appoint one of the Councillors to the office of Leader of the Council for a term ending on the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for four years). The Leader will also appoint a Deputy Leader for the same term of office to act in his absence. However, in each Council Year the Leader will appoint between one and eight other Councillors to combine with the Leader and Deputy Leader to form a Cabinet. The Leader will then allocate a number of functional responsibilities (called a portfolio) to each of them. The Cabinet is responsible for an extensive range of functions in accordance with this Constitution and the policies and budget agreed by the Council. [See Articles 2 to 5.]

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~~*The Council [here local authorities should describe the role of the full Council in appointing (where and if it is the Council's responsibility) and holding to account the executive and committees, and also any special features, e.g. state of the (area) debates and public question times – exact arrangements will depend on the form of constitution adopted by the Council]. At the Annual Meeting of the Council in the year of an ordinary election of Councillors, the Council will appoint one of the Councillors to the office of Leader of the Council for a term ending on the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for four years). The Leader will also appoint a Deputy Leader for the same term of office to act in his absence. However, in each Council Year the Leader will appoint between one and eight other Councillors to combine with the Leader and Deputy Leader to form a Cabinet. The Leader will then allocate a number of functional responsibilities (called a portfolio) to each of them. The Cabinet is responsible for an extensive range of functions in accordance with this Constitution and the policies and budget agreed by the Council. [See Articles 2 to 5.]*~~

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4.0-How Decisions are Made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. ~~The Cabinet can be made up of the Leader and up to nine other Councillors whom he/she appoints.~~ When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major

decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or other confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. ~~[See Article 7 and Part 3; see also the Budget and Policy Framework Procedure Rules and the Cabinet Procedure Rules in Part 4.]~~

5.0 Overview and Scrutiny

~~There is an overview and scrutiny committee who supports the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.~~

~~The Council must always appoint at least one Overview and Scrutiny Committee to support the work of the Cabinet and the Council as a whole. The Council has currently appointed one Overview and Scrutiny Committee called a "Panel" to undertake this role. Such Committees give the opportunity for citizens to have a greater say in Council matters by examining matters of local concern. These can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet and Cabinet Members. Decisions, which have been made by the Cabinet but not yet implemented, can be "called in" for review. This enables consideration of whether the decision is appropriate. Scrutiny may recommend that the Cabinet or Cabinet Member reconsiders the decision. Scrutiny may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy. [See Article 6 and the Overview and Scrutiny Procedure Rules in Part 4.]~~

6.0 Other Committees

~~The Council also appoints other Committees such as the Standards Committee which helps promote high standards of conduct in public life. There are also some "regulatory" Committees which will deal with things such as town and country planning and licensing matters.~~

7.0 The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A ~~protocol~~code of practice governs the relationships between officers and members of the Council. ~~[See Article 12 and the Protocol on Member/Officer Relations in Part 5.]~~

Comment [AH3]: Insert x reference

8.0 Citizens' Rights

~~The Council welcomes participation by its citizens in its work and their rights in dealing with the Council are set out in more detail in Article 3. Citizens have a number of rights in their dealings with the Council. These are referred to in the paragraph below and Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau, for example, can advise on individuals' legal rights.~~

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant ~~or as an applicant for planning permission~~, they may have additional rights. These are not covered ~~in detail~~ in this Constitution.

Citizens have the rights to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a Mayoral form of Executive;
- participate in the Council's question time and contribute to investigations by the Overview and Scrutiny Committees ~~as set out in [?]; in accordance with the procedures laid down.~~
- find out, from the Executive's ie. the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council using the Council's complaints process;~~under its own complaints procedure;~~
- complain to the Ombudsman if they think the Council has not followed its procedures properly. (However, they should only do this after using the Council's own complaints ~~process;~~ ~~procedure;~~)
- complain to the ~~Standards Committee Council~~ if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Democratic Services Team ~~who will also supply information about the rights of citizens to inspect agendas and reports and attend meetings.~~

~~These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.~~

~~The Council welcomes participation by its citizens in its work. For information about how citizens can contact their local Councillor about any matters of concern to them please see details on the Council's website at www.thanet.gov.uk or contact the Democratic Services Team for details.~~

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~~For a copy of the statement of the rights of citizens to inspect agendas and reports and attend meetings or to obtain a copy of the constitution, again please contact the Democratic Services Team.~~

~~[LEGAL NOTE.—In some places in this Constitution references are made to the law or to matters which are governed by law, for example, eligibility to stand for office at elections in Article 2 and the right to inspect the Council's accounts in Article 3. All references to the law or to matters which are governed by law are references to the legal position as at the date hereof and are included to assist in understanding the legal context in which the Council and this Constitution operates. They are not intended nor warranted in any way to constitute a comprehensive or accurate statement of the legal position at any time. In the event of any actual or alleged conflict between this Constitution and the law, the law shall prevail. In such event or in the event that there is any change in the law after the date hereof, this Constitution shall be construed in accordance with the law then pertaining.]~~

Part 2 - Articles of the Constitution

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, ~~and all its appendices, consisting of Parts 1 to 7,~~ is the Constitution of the Thanet District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision making;
- help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

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1.04 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 may monitor and evaluate the operation of the Constitution as set out in Article 15 and may make changes to it at any time.

References:

~~Section 37, Local Government Act 2000~~

~~Chapter 10, DLTR Guidance~~

~~The Local Government Act 2000 (Constitutions) (England) Direction 2000~~

Article 2 – Members of the Council

2.01 Composition and eligibility

(a) **Composition.** The Council ~~currently consists of~~ will comprise 56 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with the law applicable at the time of any election.

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~~(b) **Eligibility.** Only certain individuals such as~~ registered voters of the district or those living or working there will be eligible to hold the office of Councillor. ~~The detailed criteria are prescribed by law and there is currently a minimum age requirement of 21.~~

2.02 Election and terms of Councillors

Election and terms. The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. 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.

2.03 Roles and functions of all Councillors

(a) **Key roles.** All Councillors will:

~~(i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;~~

~~(ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;~~

(iii) effectively represent the interests of their ward and of individual constituents;

(iv) respond to constituents' enquiries and representations, fairly and impartially;

(v) participate in the governance and management of the Council;

(vi) maintain the highest standards of conduct and ethics; and

(vii) be eligible to represent the Council on other bodies.

(b) **Rights and duties**

(i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law ~~and this constitution.~~

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(ii) Councillors will 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.

(iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors must at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in **Part 5** of this Constitution.

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2.05 Allowances

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

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2.06 — Role Descriptions

1. Ward Councillor

Purpose of Role:

To participate constructively and effectively in the good governance of Thanet District Council.

Duties and responsibilities:

- (i) — To observe the Members' Code of Conduct, act at all times with probity and propriety in the best interests of the Council and maintain confidentiality in all relevant Council business.
- (ii) — To be collectively the ultimate policy makers by contributing actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery.
- (iii) — To represent effectively and impartially the Ward to which they were elected and bring their communities' views and concerns into the Council's decision-making process by becoming the advocate of and for their communities.
- (iv) — To champion causes which best relate to the interests and sustainability of the community and campaign for improvement of quality of life in the community in terms of equity, economy and the environment.
- (v) — To respond to constituents' enquiries and representations fairly; to deal with individual casework and act as advocate in resolving constituents' particular concerns or grievances.
- (vi) — To participate effectively as a Member of any Committee, Sub-Committee, working party or other body to which they are appointed and to develop and maintain a working knowledge of the Council's services, powers, duties, policies and practices including a good working relationship with officers of the Council.
- (vii) — To represent the Council effectively on any outside body to which they are appointed, providing two-way communication between the organisations and reporting to the Council on the work of the body and its contribution to the District.
- (viii) — To develop and maintain a working knowledge of other organisations and services within the District including the promotion of partnership working.
- (ix) — To contribute constructively to open government and generally encourage all sections of the community to participate in the democratic process.
- (x) — When unable to attend a meeting of Committee or other body to which they have been appointed a member, to consider finding a suitable substitute for the meeting and advise the Democratic Support section of the substitution.
- (xi) — To attend Member training whenever possible in order to develop competencies, increase knowledge and receive updated information.

2. Chairman of a Committee

~~Purpose of Role:~~

~~To chair meetings of the Committee to which they have been appointed by Council in accordance with the Committee's terms of reference and to provide leadership and direction to the Committee.~~

~~———— Duties and responsibilities (in addition to those of a Ward Councillor):~~

- ~~(i) — To develop a constructive relationship with the relevant Head of Service, senior officers and appropriate Portfolio Holder.~~
- ~~(ii) — To maintain a good working relationship with the Vice Chairman and Group Spokespersons of the committee and ensure they are adequately briefed on all relevant issues.~~
- ~~(iii) — To agree the agenda in consultation with the relevant officers.~~
- ~~(iv) — To be consulted as necessary on addition of items to the agenda as a matter of urgency.~~
- ~~(v) — To attend briefing meetings with appropriate senior officer(s) as necessary.~~
- ~~(vi) — To uphold the Council's Constitution for the conduct of meetings.~~
- ~~(vii) — To chair effective and efficient meetings of the committee ensuring that approved procedures are followed, all members of the committee are given equal opportunity to debate business to be conducted, and order is maintained during the meeting.~~
- ~~(viii) — To ensure that the Council's decision making process is transparent, consistent and accountable.~~
- ~~(ix) — To use the Chairman's second or casting vote as and when appropriate.~~
- ~~(x) — To vary the order of business if considered appropriate.~~
- ~~(xi) — To approve the final draft Minutes or Notes submitted by Democratic Services officers, suggesting amendments if necessary, and to sign the Minutes/Notes as a correct record of the meeting when approved by the committee at the following meeting.~~

~~3. Chairman of the Overview & Scrutiny Panel~~

~~Purpose of Role:~~

~~To chair the Council's Overview and Scrutiny Panel to ensure effective consideration and scrutiny by the Panel of decisions, proposals and reports of the Cabinet.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

- ~~(i) — At all times to use their own discretion and act in the interests of the Council and not of their political group.~~
- ~~(ii) — To lead the Panel on scrutiny of the Council's policies, budget, strategies and service delivery as appropriate.~~
- ~~(iii) — To set the agenda for Panel meetings, with assistance from officers.~~
- ~~(iv) — To assist with formulation of the agreed work programme.~~
- ~~(v) — To represent the Panel's views and present its resolutions to meetings of the Cabinet, Council or other Committees.~~
- ~~(vi) — To promote the role of overview and scrutiny within and outside the Council.~~
- ~~(vii) — To meet regularly with relevant officers to ensure the receipt of appropriate independent advice.~~
- ~~(viii) — To be fully aware of the Council's Forward Plan and to ensure that the Panel is able to consider all relevant issues within the timescale set out in the work programme.~~
- ~~(ix) — To provide agreement where appropriate for special urgency decisions to be implemented if not in the Forward Plan, in accordance with relevant guidelines.~~
- ~~(x) — To fully involve external stakeholders such as service users, expert witnesses and partners in overview and scrutiny activities.~~
- ~~(xi) — To call in a decision of the Executive in accordance with the agreed procedure.~~
- ~~(xii) — To contribute effectively to the Council's scrutiny process by ensuring the questioning of the relevant officers on performance management.~~

~~4. Chairman of Planning Committee~~

~~Purpose of Role:~~

~~To chair meetings of the Council's Planning Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee and open and transparent decision making on planning applications brought to Committee.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

- ~~(i) — At all times to use their own discretion and act in the interests of Thanet District Council and not of their political group.~~
- ~~(ii) — To be fully conversant with the procedure for public speaking at Committee and to ensure that all parties are given an equal opportunity to express their views within that procedure.~~
- ~~(iii) — Whenever possible to attend and chair site visits, ensuring that the correct procedure is followed in order for Members to obtain the necessary information from the visit.~~
- ~~(iv) — To maintain and update a working knowledge of Town and Country Planning matters, Planning Policy Guidance and Planning Policy Statements, the Council's Local Development~~

~~Framework, and other policies and practices affecting applications for planning permission which come before Committee.~~

~~5. Chairman of Standards Committee~~

~~Purpose of Role:~~

~~To chair meetings of the Council's Standards Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee in close liaison with the Council's Monitoring Officer~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

~~(i) As an independent, non-elected member of the Council to be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors who may be required to appear before the Committee or its Sub-Committees.~~

~~(ii) To be fully conversant with the Council's Code of Conduct and the procedures for hearing complaints against elected District or Parish councillors.~~

~~(iii) To assist the Council's Monitoring Officer as required with training elected councillors, both District and Parish.~~

~~(iv) To liaise with the appropriate officers on reports.~~

~~(v) To submit a report to the Annual Meeting of the Council on the work of the Standards Committee during the previous year.~~

~~6. Chairman of the Constitutional Review Working Party~~

~~Purpose of Role:~~

~~To chair meetings of the Council's Constitutional Review Working Party in accordance with the Working Party's terms of reference; to provide leadership and direction to the Working Party in close liaison with the Council's Monitoring Officer.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

~~(i) To be fully conversant with the Council's Constitution and decision-making processes;~~

~~(ii) In so far as is practicable, to promote consensus decision-making in relation to Constitutional changes;~~

~~(iii) — As an independent, non-elected member of the Council to be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors who may be required to appear before the Committee or its Sub-Committees;~~

~~(iv) — To liaise with the appropriate officers on reports;~~

~~7. Chairman of Licensing Board~~

~~Purpose of Role:~~

~~To chair meetings of the Council's Licensing Board in accordance with the Board's terms of reference; to provide leadership and direction to the Board and open and transparent decision making on licensing matters brought to Board.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

~~(i) — At all times to use their own discretion and act in the interests of the Licensing Authority and not of their political group;~~

~~(ii) — To be fully conversant with the procedure for hearings at Committee and to ensure that all parties are given an equal opportunity to express their views within that procedure;~~

~~(iii) — To liaise with the Council's Regulatory Services Manager and Legal department as necessary;~~

~~(iv) — To maintain and update a working knowledge of the Licensing Act 2003, relevant guidelines and regulations, and the Gambling Act 2005 as they affect applications which come before the Licensing Board.~~

~~(v) — To maintain and update a working knowledge of the various licences dealt with by the Council's Licensing Section, the guidelines for fit and proper persons and the Council's guidelines and policies in respect of the Hackney Carriage and Private Hire trades as they affect applications and other matters brought before the Licensing Board.~~

~~(vi) — To undertake training on new or amended legislation, regulations or procedures as required.~~

~~8. Chairman of Governance and Audit Committee~~

~~Purpose of Role:~~

~~To chair meetings of the Council's Governance and Audit Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee on detailed financial and audit matters brought before Committee.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

~~(i) — Maintain and update a working knowledge of the Council's financial practices, budget process and timetable, draft and year end accounts.~~

~~(ii) — Have an overall understanding of the various functions and service areas of the Council with regard to audit reports on performance levels.~~

~~(iii) — To work closely with the Head of Audit Partnership, Financial Services Manager and Deputy S.151 Officer and the Business Support and Compliance Manager in respect of reports to be considered by Committee.~~

~~(iv) — To undertake training on new or amended legislation, regulations or procedures as required.~~

~~9. Chairman of General Purposes Committee (when appointed)~~

~~Purpose of Role:~~

~~To chair meetings of the Council's General Purposes Committee in accordance with the Committee's terms of reference; to provide leadership and direction to Members on matters which would otherwise have been dealt with by Council.~~

~~Duties and responsibilities (in addition to those of a Chairman of a Committee):~~

~~(i) — To have a clear understanding of the role of the Committee and the matters which it can consider and those powers and functions which are reserved to Council.~~

~~(ii) — Have an overall understanding of the various functions and service areas of the Council.~~

~~(iii) — Maintain and update a working knowledge of the Council's terms and conditions of employment.~~

~~(iv) — To work closely with the Chief Executive and the Service Managers as necessary.~~

~~10. Cabinet Member~~

~~Purpose of Role:~~

~~(i) — To carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under the Council's Constitution.~~

~~(ii) — In addition, to have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which they are accountable,~~

~~———— **Duties and responsibilities (in addition to those of a Ward Councillor):**~~

~~(i) — To participate effectively as a member of the Cabinet, being responsible collectively and individually for making and implementing executive decisions, including proposing for adoption the Council's budget and policy framework;~~

~~(ii) — To review regularly the effectiveness of policies and services for which the portfolio holder is responsible and make recommendations to the Cabinet for continuous improvement.~~

~~(iii) — To seek advice from relevant officers before taking any decision which may be within their own delegated authority.~~

~~(iv) — To monitor and review capital and revenue budgets in their areas of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.~~

~~(v) — Annually to review fees and charges where these are relevant to the responsibility areas and to recommend changes in line with the Council's agreed budget strategy.~~

~~(vi) — To liaise and work with other portfolio holders on cross-cutting areas of responsibility and make recommendations to the Cabinet as appropriate for decision.~~

~~(vii) — To consider and agree service plans for services for which they are responsible and regularly review these with appropriate officers to ensure agreed actions are taken.~~

~~(viii) — To identify and encourage participation and consultation on Council policies and strategies contained in the Corporate Plan with all members of the Council, staff, residents of the District, partners and stakeholders and to promote the Council's core values.~~

~~(ix) — To speak on behalf of the Council and to represent the Council on relevant external bodies to which they are appointed by the Council or the Executive.~~

~~(x) — To refer to Cabinet any matters with corporate implications.~~

~~(xi) — To receive representations from Councillors acting in their capacity as Ward members in relation to the provision of services to residents within their area.~~

~~(xii) — To exercise delegated powers in accordance with the Council's Constitution.~~

~~(xiii) — To make a decision in accordance with the Council's Constitution in a case where a matter is urgent and cannot wait for the next meeting of the Cabinet.~~

~~———— **11. Leader of the Council**~~

~~———— **Purpose of Role:**~~

~~(i) — To provide strategic direction and leadership to the Council and lead in its relations with government, other public bodies, partner organisations and the media.~~

~~(ii) To be responsible for:~~

- ~~• Leadership~~ ~~• Communications~~
- ~~• Policy co-ordination and development~~ ~~• Corporate Plan~~
- ~~• Partnership development~~ ~~• Community strategy~~
- ~~• Strategic budget co-ordination~~

~~**Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):**~~

~~(i) To provide effective political leadership and strategic direction to the Council, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery and to achieve the objectives of the Council's Corporate Plan.~~

~~(ii) To ensure effective corporate governance including working with opposition groups to achieve, where possible, cross party co-operation and to promote the highest standards of probity.~~

~~(iii) To lead the Cabinet and chair its meetings, ensuring that it meets its collective terms of reference and that of individual portfolio holders, and be responsible for the Council's corporate and resource strategy.~~

~~(iv) To lead the development of local, regional, national and European policy and strategic partnerships.~~

~~(v) To lead in developing partnerships with agencies, residents and stakeholders in relation to the delivery of strategic objectives and the provision of services to residents of the District in accordance with the community planning process.~~

~~(vi) To be the key contact for outside organisations including central government, to communicate policies and priorities to the Council's Senior Management Team (SMT) and to receive its advice.~~

~~(vii) To positively promote the Council and the District in the media and to act as the spokesperson for the Council.~~

~~(viii) To promote the long term financial, business and economic stability of the Council.~~

~~(ix) To ensure that the recommendations of the Overview and Scrutiny Committees are fully considered in the formulation and development of Council policy.~~

~~(x) Annually to appoint members of the Cabinet and determine the individual portfolio holders.~~

~~(xi) To exercise delegated powers in accordance with the Council's Constitution.~~

~~(xii) To consult on and give consent to as appropriate decisions taken between meetings of Cabinet as set out in the Council's Constitution.~~

~~(xiii) To nominate members of his/her group to serve on committees and sub-committees of the Council.~~

~~(xvi) To give an oral report to each ordinary meeting of Council.~~

~~(xv) — In the event of a hung Council, the Leader of Council and Opposition Leader should work together in a constructive manner.~~

~~12. Deputy Leader~~

~~Purpose of the role:~~

~~To support the Leader and fulfil all areas of responsibility of the Leader in their absence and to ensure that the Council's management and political processes function effectively.~~

~~Duties and responsibilities (in addition to those of a Ward Councillor and a Chairman of a Committee):~~

~~(i) — To assist and work with the Leader of the Council.~~

~~(ii) — In the absence of the Leader of the Council, to deputise for them at Council meetings and chair meetings of the Cabinet.~~

~~(iii) — To carry out the requirements of the Leader's job profile in as far as legally possible and permissible, in the absence of the Leader.~~

~~(iv) — To carry out such duties and undertake portfolio responsibility as delegated by the Leader of the Council.~~

~~13. Shadow Leader of Council~~

~~Purpose of Role:~~

~~(i) — To provide leadership to the Council's major opposition group.~~

~~(ii) — To ensure effective, positive and constructive opposition and/or challenge to the Council's majority group.~~

~~Duties and Responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):~~

~~(i) — To provide overall leadership to the Council's major opposition group;~~

~~(ii) — To ensure effective corporate governance including working with other groups to achieve, where possible, cross party co-operation and to promote the highest standards of probity;~~

~~(iii) — To lead effectively the opposition and/or challenge to the majority group at the Council and provide, as appropriate, alternatives or amendments to the Council's policies, strategies and budgets and proposed amendments thereto.~~

~~(iv) — To act as the principal political spokesperson for the major opposition group.~~

~~(v) — To meet regularly with his/her group members to ensure good communications and to inform effective opposition;~~

~~(vi) — To maintain effective relationships with the Leader of the Council, members of the Executive, the Chief Executive, Service Managers and other relevant senior officers, to meet them as required to ensure effective briefings on service and relevant corporate areas and any other relevant issues pertaining to the Council.~~

~~(vii) — To nominate members of his/her group to serve on committees and sub-committees of the Council.~~

~~(viii) — To ensure effective contact with community representatives and other local stakeholders, as appropriate, and represent their views in ensuring effective opposition to the majority party.~~

~~(ix) — In the event of a hung Council, the Leader of Council and Opposition Leader should work together in a constructive manner.~~

~~14. Shadow Cabinet Member~~

~~Purpose of Role:~~

~~— To assist the Leader of the Majority Opposition Group by providing informed comment and advice in respect of their particular shadow portfolio and with regard to the work being undertaken by the current Portfolio Holder.~~

~~Duties and responsibilities (in addition to those of a Ward Councillor):~~

~~(i) — To provide constructive challenge to the policies of the administration.~~

~~(ii) — To assist in shaping the policy of the Opposition Group with regard to its shadow portfolio.~~

~~(iii) — To liaise and work with other shadow portfolio holders on cross-cutting areas of responsibility.~~

~~(iv) — To receive briefings at regular intervals from Senior Officers of the Council as required.~~

~~(v) — To participate effectively as a member of the Shadow Cabinet by becoming thoroughly conversant with the area of expertise relevant to their specific portfolio.~~

~~15. Chairman of the Council~~

~~Purpose of Role:~~

~~— The Chairman will be elected by the Council annually to:~~

~~(i) — Be the Civic Head of the Council representing the Council as a whole in all civic and ceremonial matters; and~~

~~(ii) — 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.~~

~~**Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):**~~

~~**Ceremonial Role**~~

~~(i) — The Chairman will attend such civic and ceremonial functions as the Council and he/she determines appropriate having regard to criteria determined in consultation with the Leader of the Council for which events require a civic/ceremonial presence.~~

~~(ii) — To positively promote the Council and the District.~~

~~**Chairing the Council Meeting**~~

~~(i) — To uphold and promote the purposes of the Council's Constitution and to interpret the Constitution when necessary.~~

~~(ii) — To preside over meetings of the Council in an impartial manner.~~

~~(iii) — 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 neither on the Executive nor hold Committee chairs are able to hold the Executive and Committee chairmen to account.~~

~~—— (iv) — To promote public involvement in the Council's activities.~~

~~—— (v) — To be the conscience of the Council.~~

~~(vii) — To be the arbiter in respect of appropriate decisions taken between meetings of Cabinet where the call in procedure should not apply.~~

~~**16. Vice-Chairman of the Council**~~

~~**Purpose of Role:**~~

~~To support the Chairman of the Council and, in his/her absence, to have the same roles and functions as the Chairman.~~

~~——~~

~~——~~

~~**Duties and Responsibilities:**~~

~~(i) To attend such civic functions and events as shall be requested by the Chairman.~~

~~(ii) To assist the Chairman at meetings of Council as necessary.~~

References:

~~Part I, Part VA and Section 79, Local Government Act 1972~~

~~Chapter 2, DLTR Guidance~~

~~Section 18, Local Government and Housing Act 1989 and regulations thereunder~~

~~Section 7, Superannuation Act 1972 and regulations thereunder~~

~~[See further:-~~

~~On "Members' Code of Conduct" and "Protocol on Member/Officer Relations", see Part 5.]~~

Article 3 – Citizens and the Council

3.01 Citizens' rights

3.01 – The Council is there to serve the people of Thanet

NB. These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.

Citizens have the following rights. ~~a wide variety of rights which are conferred by law and by this Constitution.~~ 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 area have the right to vote and sign a petition to request a referendum for an elected Mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the Cabinet executive when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the Cabinet executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by Overview and Scrutiny Committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme ~~provided that the complaint has been brought to the notice of the Council and that the Council has been afforded a reasonable opportunity to investigate and reply;~~
 - (iii) ~~the Standards Committee about a breach of the Members' Code of Conduct about the conduct of a member if they have evidence which they believe shows that a member has breached the Council's code of conduct.~~

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Comment [AH4]: Check use of language

3.02 Citizens' responsibilities

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

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3.03 Contacting their local member

(a) Citizens have the right to contact their local member about any matters of concern to them.

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(b) Citizens have the right to lobby any member about any matters of concern to them.

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3.04 Contacting the Council

Citizens can contact the Council through its website, by email, in person or on the telephone.

[See further:-

On "Key Decisions", see Article 13.

On "the Forward Plan", see Access to Information Procedure Rules in Part 4.

On "Overview and Scrutiny Committees", see Article 6 and Overview and Scrutiny Procedure Rules in Part 4.]

Article 4 – The Full Council

4.01 Meanings

(a) **Policy Framework.** The ~~“Policy Framework”~~ means the following plans and strategies:

Comment [AH5]: Revisions to be inserted

~~— Statutory~~

- Best Value Performance Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan.

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~~— Non-statutory~~

- Council's Corporate Plan;
- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Local Agenda 21 Strategy.

~~Other plans and strategies which the council may decide should be adopted by the Council meeting~~

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~~The Council can adopt additional plans and strategies to form part of the Policy Framework.~~

(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 and decisions ~~by way of the formulation of a plan or strategy~~ relating to the control of the Council's borrowing requirement, ~~investments or the control of its~~ capital expenditure and the setting of virement limits.

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

Except as otherwise allowed by **Article 13 and Article 15**, ~~only the Council will exercise the following functions:~~

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- (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; ~~including:~~
- ~~(i) the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the authority's consideration;~~
 - ~~(ii) the amendment of any draft plan or strategy submitted by the Cabinet for the authority's consideration;~~
 - ~~(iii) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and~~
 - ~~(iv) the adoption (with or without modification) of the plan or strategy;~~
- (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 ~~E~~xecutive 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 ~~L~~leader;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an ~~E~~executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area;
- (i) confirming the appointment of the ~~H~~head of ~~P~~paid ~~S~~service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the ~~Cabinet~~executive; and
- (l) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary 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 Cabinet.

~~References:~~

~~Local Authorities (Functions and Responsibilities) (England) Regulations 2000
Chapter 2, DLTR Guidance~~

~~[See further:-~~

~~For decision making generally, see Article 13.]~~

Article 5 – Chairing the Council

5.01 Role and function of the Chairman

The Chairman of Council and in his/her absence, the Vice-Chairman, will have the following roles and functions:

- Ceremonial Role
- Chairing the Council Meeting

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. 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;
3. 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 Cabinet or hold Committee Chairs are able to hold the Cabinet members and Committee Chairmen to account;
4. to support the promotion of public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

References:

~~Sections 3, 5, 245; schedule 2, 12; Local Government Act 1972~~

~~Schedule 3, Local Government Act 2000~~

~~Chapters 2 and 4, DLTR Guidance~~

~~[See further:-~~

~~On "the purposes of the Constitution", see Article 1.]~~

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

~~The Council will always appoint at least one Overview and Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and set out in detail in 6.03 of this article. [?]. The current committee arrangement is set out in the Annex to this Article.~~

<u>Committee</u>	<u>Scope</u>
<u>Lifelong learning and culture</u>	The provision, planning and management of education, training, arts and culture in [area].
<u>Regeneration and housing</u>	The physical, social and economic environment and regeneration of [area], the provision, planning and management of its housing and the built environment.
<u>Social inclusion</u>	Policies and strategies of the Council and other bodies which affect the economic, social and political resources available to individuals to enable them to participate fully in society, especially in the context of the national strategy for neighbourhood renewal.
<u>Public accounts</u>	The Council's budget, the management of its budget, capital, revenue borrowing and assets and its audit arrangements.
<u>Services</u>	The provision, planning, management and performance of council services, including support services, best value, the community plan and any other Council function not otherwise addressed by any other committee.
<u>Social care and health</u>	The provision, planning and management of social and healthcare, children's, elderly persons and mental welfare service in [area], and the holding to account of health authorities as proposed under the NHS Plan.
<u>Democracy and governance</u>	Local democracy and the achievement of effective, transparent and accountable decision making by the Council.

~~In considering membership of such committees, due regard should be paid to the potential contribution of community stakeholders outside the council. Overview and scrutiny committees in local education authorities must comply with the provisions of paragraphs 7, 8, 10 and 11 of schedule 1 to the Local Government Act 2000 or provisions proposed in regulations under section 32 (i.e. include church and parent governor representatives as voting appointed members of committees with education as all or part of their remit).~~

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6.02 General powers/role

Within ~~its~~their terms of reference, the Overview and Scrutiny Committee ~~may~~will:

- ~~(a) review and/or scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions;~~
- ~~(ib) make reports and/or recommendations to the Cabinet, Council~~Cabinet and/or Council~~ or any appropriate Committee in connection with the discharge of any functions; and and/or Council arising from the outcome of the scrutiny process;~~
- (c) consider any matter affecting the area or its residents.
- ~~(ii) question members of the Cabinet and/or Committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;~~
- ~~(iii) question members of the Cabinet and/or Committees and chief officers about their views on issues and proposals affecting the area~~
- ~~(iv) question and gather evidence from any person (with their consent);~~
- ~~(v) exercise overall responsibility for the finances made available to them;~~
- ~~(vi) exercise overall responsibility for the work programme of any officers employed to support their work.~~

6.03 Specific functions

Terms of Reference

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet
- (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet
- (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
- (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;
- (e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (g) 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;
- (h) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
- (i) to review external partnership working and the performance of external service providers.
- (j) to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation .
- (k) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
- (l) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.

[Insert TOR from TDR p24 marked in blue]

6.04 Annual report. ~~The Overview and scrutiny committees may report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.~~

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6.035 Proceedings of Overview and Scrutiny Panels/committees

The 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.

~~**6.04 Annual Report**~~

~~The Overview and Scrutiny Committee may report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.~~

References:

~~Section 21 and schedule 1 (Paragraphs 7, 8, 10 and 11), Local Government Act 2000~~

~~Chapter 3, DLTR Guidance~~

Annex to Article 6 – Overview and Scrutiny Committee

Terms of Reference

- ~~(a) — to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet~~
- ~~(b) — to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet~~
- ~~(c) — to deal with all call in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.~~
- ~~(d) — to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;~~
- ~~(e) — within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;~~
- ~~(f) — consider and implement mechanisms to encourage and enhance community participation in the development of policy options;~~
- ~~(g) — 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;~~
- ~~(h) — to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.~~
- ~~(i) — to review external partnership working and the performance of external service providers.~~
- ~~(j) — to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation.~~
- ~~(k) — to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.~~
- ~~(l) — to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.~~

Article 7 – The Executive (“The Cabinet”)

THE ROLE OF THE CABINET

7.01 Role

~~The Cabinet will carry out all of the local authority’s functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution, apart from those responsibilities that either the law of England or this Constitution assigns to any other part or person within this Authority.~~

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7.02 Form and composition

The Cabinet will consist of the ~~L~~Leader of the Council ~~(“the Leader”) elected by full Council, together with~~ the Deputy Leader ~~appointed by the Leader~~ and at least one but not more than ~~eight other C~~councillors ~~also~~ appointed by the ~~L~~Leader.

7.03 Leader

~~The L~~The ~~L~~Leader will be a ~~C~~councillor elected to the position of ~~L~~Leader ~~of~~by the Council ~~at the Annual Meeting of the Council in the year of an ordinary election of Councillors.~~ The ~~L~~Leader will hold office until ~~the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for a term of four years), unless:~~

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a ~~C~~councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she ~~ceases for any reason to be a~~ is no longer a ~~C~~councillor; or
- (d) he/she is removed from office by resolution of the Council.

7.04 Replacement of Leader upon Resignation etc.

Should the Leader cease to hold office for any reason other than removal by a resolution of the Council, the Council will elect a new Leader at the next Ordinary Meeting of Council. Should the Leader cease to hold office by resolution of the Council, the Council will at the same meeting elect a new Leader. In either case the term of office of the new Leader will be the unexpired residue of the term of office of the former Leader.

7.05 Deputy Leader

Upon election as Leader, the Leader will appoint a Councillor to the office of Deputy Leader. The Deputy Leader will have full power to act in the absence of the Leader and will hold office until the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for a term of four years), unless:

- (a) he/she resigns from the office; or

- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she ceases for any reason to be a Councillor; or
- (d) he/she is removed from office by the Leader, in which case the Leader will give notice in writing to that effect to the proper officer who shall immediately give a copy of the notice to the Deputy Leader and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

7.06 Replacement of Deputy Leader upon Resignation etc.

Should the Deputy Leader cease to hold office for any reason other than suspension from being a Councillor, the Leader will appoint a Councillor as the new Deputy Leader and will notify the Council of the identity of the new Deputy Leader at the next Ordinary Meeting of Council. The term of office of the new Deputy Leader will be the unexpired residue of the term of office of the former Deputy Leader.

7.07 Other Cabinet members

In each Council Year in which he or she holds office, the Leader will:

- (a) within the prescribed limits, determine the number of Councillors who together with the Leader and Deputy Leader shall comprise the Cabinet for the ensuing Council Year;
- (b) be responsible for appointing them;
- (c) notify Council at the Annual Meeting of his or her decisions in relation to (a) and (b) above.

7.08 Term of Office of Other Cabinet members

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they ~~cease for any reason to be~~ are no longer Councillors; or
- (d) they are removed from office by the Leader in which case the Leader will give written notice of any removal to the proper officer who shall immediately give a copy of the notice to the Cabinet member in question and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

7.09 Cabinet Portfolios

In each Council Year the Leader will allocate a range of functional responsibilities (called 'a portfolio') to the members of the Cabinet and will at the Annual Meeting also notify Council of such allocation and will cause that to be recorded in the Constitution of the Council.

7.10 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7.11 Responsibility for functions

The ~~L~~leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, ~~C~~committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular ~~E~~executive functions.

~~References:~~

~~Section 11 and schedule 1, paragraphs 1, 2, 3, Local Government Act 2000~~

~~Chapters 4, 14 and 15, DLTR Guidance~~

~~[See further:-~~

~~On “proper officer”, see list of proper officer functions in Appendix 1 to Part 7.~~

~~For powers of Leader, see Cabinet Procedure Rules in Part 4.~~

~~For election of Leader and Deputy Leader by Council, see Council Procedure Rule 1.1.]~~

Article 8 – Regulatory and other Committees

8.01 Regulatory and other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution – ‘Responsibility for Council Functions’ – to discharge the functions described.

This note is added for information only and does not comprise part of this Constitution.

The Committees appointed as at the date hereof are as follows:-

1. Planning Committee - 15 Members
2. Licensing Board - 15 Members
3. Governance and Audit Committee - 9 Members
4. Standards Committee - 7 Thanet District Council Members plus 4 “independent” Members and 3 Parish/Town Council Members
5. Overview and Scrutiny Panel - 16 Members
6. Joint Transportation Board - 8 Thanet District Council Members plus the 8 Kent County Council Councillors representing Thanet wards and 1 Thanet Association of Parish Councils representative
7. Constitutional Review Working Party - 4 Thanet District Council Members plus 2 “independent” Members
8. Standards (Assessment) Sub Committee - Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative
9. Standards (Hearings) Sub-Committee - Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative
10. General Purposes Committee - 10 Members
11. Boundary and Electoral Arrangements Working Party - 7 Members

Article 9 – The Standards Committee

9.01 ~~General~~Standards Committee

~~A Committee of the Council established to make recommendations in relations to ethics and the standards of conduct expected of elected and co-opted members of Thanet District Council and the Town and Parish Councils established in the administrative area of Thanet District Council. The Council meeting will establish a Standards Committee.~~

9.02 Composition

(a) Membership. The Standards Committee will be composed of at least:

- ~~Seven~~ councillors [other than the leader];
- ~~Four~~ independent members;
- ~~Three~~ members of a parish council wholly or mainly in the Council's area (Parish Members).

(b) Independent members. Independent members will be entitled to vote at meetings;

(c) Parish members. At least one parish member must be present when matters relating to those parish councils or their members are being considered;

(d) Chairing the Committee. The Chairman and Vice chairman of the Committee shall be drawn from among the independent members.

~~9.02 Membership, Chairmanship and Quorum~~

Number of Members	Fourteen Members comprising seven District Councillors, four Independent Members (non eouncillors) and three Town/Parish Representatives
Substitute Members Permitted	Yes
Political Balance Rules apply	No – Council is asked to waive political balance at each Annual Meeting
Appointments/Removals from Office	By resolution of full Council.
Restrictions on Membership	Cabinet Leader and Group Whips ineligible The co-opted Town/Parish Representatives must not also be District Councillors.
Restrictions on Chairmanship/Vice Chairmanship	Chairman and Vice Chairman to be co-opted Independent Members
Quorum	Three
Number of ordinary meetings per Council Year	Four
Standing Sub Committees	Standards (Assessment) Sub Committee and Standards (Hearings) Sub Committee

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a)** To promote and maintain high ethical standards of conduct for elected and co-opted Members.
- (b)** To help elected and co-opted Members to observe the Members' Code of Conduct.

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(c) To give the Council advice on adoption or revision of the Members' Code of Conduct and on informal codes/protocols covering matters such as planning and Member/Officer relations.

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(d) To monitor the effectiveness of the Members' Code of Conduct.

(e) To train or arrange training for elected and co-opted Members on matters relating to the Members' Code of Conduct.

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(f) To deal with complaints that elected and co-opted Members have breached the Members' Code of Conduct and in connection with this function:

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(i) To develop and adopt:

- Assessment Criteria for dealing with complaints;
- Policies for dealing with vexatious, persistent and anonymous complaints and requests by complainants for confidentiality;
- Arrangements for dealing with complaints and publicising the arrangements;
- Procedures for dealing with local investigations; and
- Such other provisions and procedures as may be required.

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(ii) To establish and maintain **Assessment and** Hearings Sub-Committees.

(g) To grant dispensations under S.33 Localism Act 2011.

(h) To conduct Hearings and make determinations in respect of complaints that elected and co-opted Members have breached the Members' Code of Conduct in accordance with relevant statutory and Constitutional requirements and in connection with this function:

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(i) To develop and adopt procedures for dealing with such Hearings; and

(ii) To establish and maintain a **Hearings Sub-Committee** with its own terms of reference.

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(i) To undertake the functions set out above in respect of [insert names of parish councils if any].

Note: The procedures for dealing with Complaints against Members alleging a breach of the Members' Code of Conduct are set out in **Part 4(i)** of the Constitution.

[NB insert extra functions as agreed]

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~~9.03 Terms of Reference~~

~~To discharge the functions (other than those which are reserved to Council) as set out in Part 1, Chapter 7 of the Localism Act 2011 including:~~

- ~~1. To promote and maintain high standards of conduct by Members and co-opted Members of the District Council and to make recommendations to Council on improving standards.~~
- ~~2. To advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct and to make recommendations to Parish/Town Councils on improving standards.~~
- ~~3. To advise the District Council on the adoption of or revisions to its Members Code of Conduct.~~
- ~~4. To advise, train or arrange to train District Members, Co-opted Members and Parish/Town Councillors on matters relating to the Members Code of Conduct.~~
- ~~5. To assist District Councillors, Co-opted Members and Parish/Town Councillors to observe their respective Codes of Conduct.~~
- ~~6. To monitor and assess the operation and effectiveness of the Members Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.~~
- ~~7. To maintain oversight of the District Council's arrangements for dealing with Code of Conduct complaints.~~
- ~~8. To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.~~
- ~~9. Recommending to Council for approval the terms of any other codes or protocols relating to matters of conduct, ethics or propriety, including without limitation the Protocol on Member/Officer Relations and the Protocol on the Guidance of Planning Committee Members and Officers and any alterations or amendments thereto.~~
- ~~10. Receiving the recommendations of the Constitution Review Working Party Working and recommending to Council the terms of the Constitution for the Governance of Thanet District Council~~

~~11. — To receive quarterly reports (or less frequently if there are no complaints to report) from the Monitoring Officer on the number and nature of complaints received and action taken as a result.~~

~~12. — To receive an annual report on the District Council's ethical governance arrangements.~~

~~13. — To grant dispensations pursuant to S33 (2) of the Localism Act 2011 where:~~

~~13.1 — without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.~~

~~13.2 — that the authority considers that the dispensation is in the interests of persons living in its area; or~~

~~13.3 — where the Committee considers that it is otherwise appropriate to grant a dispensation.~~

~~14 — Responsibility for establishing the following Advisory Sub Committees to carry out the following functions:-~~

~~14.1 — A Standards Assessment Sub Committee with responsibility for making recommendations to the Monitoring Officer on whether in relation to a complaint alleging a failure to comply with the requirements of the Members Code of Conduct no further action should be taken in respect of the complaint or whether the informal disputes resolution procedure should be instigated or whether the complaint should be the subject of an investigation.~~

~~14.2 — A Standards Hearings Sub Committee with responsibility for conducting a hearing into a complaint that has been referred to it by the Monitoring Officer and for making recommendations to the Monitoring Officer as to whether there has been a failure by a member to comply with the requirements of the Members Code of Conduct and if so, what action should be taken (if any) in respect of such failure.~~

~~15 — Responsibility for the overview of the Council's complaints procedure including ombudsman investigations.~~

9.04 Delegations

~~— The matters referred to in Paragraphs 3 to 8 and 11-15 (inclusive) above.~~

~~9.05 STANDARDS (ASSESSMENT) SUB COMMITTEE~~

~~9.06 General~~

~~A Sub Committee of the Standards Committee established to make recommendations to the Monitoring Officer on whether in relation to a complaint alleging a failure to comply with the requirements of the Members Code of Conduct no further action should be taken in respect of the complaint or whether the informal disputes resolution procedure should be instigated or whether the complaint should be the subject of an investigation~~

~~9.07 Membership, Chairmanship and Quorum~~

Number of Members	Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer has delegated authority to appoint members on a per meeting basis
Restrictions on Membership	Reserved to members of the Standards Committee.
Restrictions on Chairmanship	Chairmanship is reserved to a co-opted Independent Member
Quorum	Three
Number of ordinary meetings per Council Year	Meetings will be called as required

~~9.08 Terms of Reference~~

~~1. When required to do so to conduct an initial assessment of a complaint alleging that an elected or co-opted Member of Thanet District Council or a Town or Parish Council established in Thanet failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council and make a recommendations to the Monitoring Officer that:~~

- ~~(i) No further action be taken in respect of the complaint; or~~

~~(ii) — The Informal Disputes Resolution Procedure be instigated; or~~

~~(iii) — The complaint should be the subject of an investigation.~~

~~(iv) — To produce a written summary of its consideration of a complaint to include the main points considered, its conclusion on the complaint and the reasons for that conclusion and to make arrangements to ensure that such summary is available for inspection by members of the public at the Council Offices for a period of one year beginning with the date of the meeting that considered the complaint.~~

~~9.09 — Delegations~~

~~N/A.~~

~~9.10 — STANDARDS (HEARINGS) SUB COMMITTEE~~

~~9.11 — General~~

~~A Sub Committee of the Standards Committee established to conduct a hearing into a complaint referred to it by the Monitoring Officer and for making a recommendations to the Monitoring Officer on whether in the opinion of the Sub Committee there has been a failure by an elected or co-opted member of Thanet District Council or a Town or Parish Council established in Thanet to comply with the requirements Members Code of Conduct adopted by their Council and if the Sub Committee is of the opinion that there has been a failure to comply to further recommend to the Monitoring Officer what action to take (if any) in relation thereto~~

~~9.12 — Membership, Chairmanship and Quorum~~

Number of Members	Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer has delegated authority to appoint members on a per

	meeting basis.
Restrictions on Membership	Reserved to elected members of the Standards Committee
Restrictions on Chairmanship/Vice Chairmanship	Chairmanship is reserved to a co-opted Independent Member
Quorum	Three.
Number of ordinary meetings per Council Year	Meetings will be called as required

9.13 Terms of Reference

~~1. To conduct a hearing in relation to a complaint referred to it by the Monitoring Officer alleging a failure by an elected or co-opted member of Thanet District Council or a Parish or Town Council established in Thanet to comply with the requirements of the Members Code of Conduct adopted by their Council.~~

~~2. At the conclusion of the hearing and taking into account the opinion of the Independent Person, to form an opinion on whether there has been a failure by the Member to comply with the requirements of the Members Code of Conduct of their Council and to communicate that opinion to the Monitoring Officer~~

~~3. In the event of the Sub Committee being of the opinion that there has been a failure by the Member to comply with the Members Code of Conduct adopted by their Council, to make recommendations to the Monitoring Officer on what action to take (if any) in respect of such failure~~

~~4. To give notice in writing to the Monitoring Officer of its recommendations including the reasons for such recommendations.~~

9.14 Delegations

~~All matters in the Terms of Reference are fully delegated.~~

9.15 Notes

~~1. An Independent Person shall be entitled to attend any hearing and make representations to the Sub Committee before it makes any recommendations as to whether there has been a failure to comply with the Members Code of Conduct or in the event of such failure, what action to take in relation thereto.~~

Article 10 – Area Committees and Forums

10.01 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.~~

10.012 Conflicts of interest – membership of area Committees and Overview and Scrutiny Committees

- (a) **Conflict of interest.** If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of any area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the Overview and Scrutiny Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

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10.023 Area Committees – access to information

~~Any~~ Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.034 Cabinet members on area Committees

A member of the Cabinet [other than the council manager] may serve on an area Committee if otherwise eligible to do so as a Councillor.

References:

~~Part VA, Local Government Act 1972~~

~~Section 13, Local Government and Housing Act 1989~~

~~Reg. 4, 5 and 16A Local Government (Committee and Political Groups) Regulations 1990~~

~~Section 18, Local Government Act 2000~~

~~The Local Authorities (Functions and Responsibilities) (England) Regulations 2000~~

~~Chapter 6, DLTR Guidance~~

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or advise the Council. (Such arrangements may involve the appointment of a joint Committee with these other local authorities).
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint Committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
 - the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet Executive may appoint to the joint Committee any Councillor who is a member for a ward which is wholly or partly contained within the area;
 - the joint Committee is between a county Council and a single district Council and relates to functions of the Executive of the county Council. In such cases, the Executive of the county Council may appoint to the joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

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11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint Committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet~~executive~~.
- (c) If the joint ~~C~~committee contains members who are not on the ~~E~~executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-~~E~~executive functions to another local authority or, in certain circumstances, the ~~E~~executive of another local authority.
- (b) The Cabinet may delegate ~~E~~executive functions to another local authority or the ~~Executive~~Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.05 Contracting out

The Council (~~for functions which are not ~~E~~executive functions~~) and the Cabinet (~~for ~~E~~executive functions~~) may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

References:

Sections 2, 19, 20 Local Government Act 2000

~~The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000~~

Chapter 6, DLTR Guidance

Article 12 – Officers

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, who will be designated chief officers:

The full Council may delegate these functions to another body or officer.

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Corporate Programming and Executive Support Unit.
Director – “Section 151 Officer”	Corporate Services .
Director	Community Services
Director	Operational Services

- (c) Head of Paid Service, Monitoring Officer and Chief Financial Officer. The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Legal Services Manager (Monitoring Officer)	Monitoring Officer
Director of Corporate Services	Chief Finance Officer

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

The roles of these posts are underpinned by the fundamental principles of political neutrality and service to the whole Council

- (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.
- (e) **Accountability.** Within the fundamental principles of political neutrality and service to the whole Council, the Head of Paid Service shall report to the Leader of the Council concerning the efficient and effective implementation of the Council's policies. The Chief Finance Officer shall similarly report to the Head of Paid Service. They shall both ensure that other Cabinet Members are appropriately briefed regarding matters relevant to their individual portfolio areas.

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 coordinated, 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

- (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 in accordance with the powers and duties contained in the Local Government and Housing Act 1989.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he/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 Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) ~~Receiving reports. The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.~~
- (e) **Conducting investigations.** The Monitoring Officer will conduct [or commission](#) investigations into [complaints about the conduct of members matters referred by ethical standards officers](#) and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible in accordance with this Constitution.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **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.
- (i) **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 (“Section 151 Officer”)

- (a) Ensuring lawfulness and financial prudence of decision making in accordance with the powers and duties contained in the Local Government Act 1972 and the Local Government Finance Act 1988. 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 Cabinet in relation to an Executive function and the Council’s external auditor if he/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 any elected Mayor of the Council 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.

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 set out in Part 5 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

Reference:

Chapter 8, DLTR Guidance

[See further:-

On "Management Structure", see Part 7 (and Appendix of Property Officer Functions).]

Article 13 – Decision Making

13.01 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.

13.02 Principles of decision making

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

- (a) the presumption in favour of openness and transparency;
- (b) the need for consultation with interested parties;
- (c) the need to take account of relevant professional advice from appropriate staff;
- (d) the need for clarity of aims and desired outcomes;
- (e) the need to identify the range of options considered.
- (f) the need to give reasons and explanation for a decision.

- ~~(a) proportionality (i.e. the action must be proportionate to the desired outcome);~~
- ~~(b) due consultation and the taking of professional advice from officers;~~
- ~~(c) respect for human rights (see below for further details);~~
- ~~(d) a presumption in favour of openness; and~~
- ~~(e) clarity of aims and desired outcomes.~~

13.03 Types of decision

(a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

(b) Key decisions.

~~(i) Councils should insert into this part of the Constitution the definition of key decisions contained in regulations. Sourced example from another council~~

(i) A key decision which must be included in the Forward Plan is an Executive decision which is likely:

- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates (the Council has decided that any decision involving expenditure in excess of £250,000, excluding any decisions relating to investment of Council monies as part of Treasury Management procedures, will be a key decision); or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in

~~(ii) 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.~~

~~(i) A key decision means an executive decision which is likely –~~

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- ~~(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or~~
- ~~(b) to be significant in terms of its effects on communities living or working in an area of the district comprising two or more wards or electoral divisions in the district.~~
- ~~(ii) In determining what is "significant" regard shall be had to any guidance for the time being issued by the Secretary of State.~~
- ~~(iii) In order to assist potential decision makers within the Council reach consistent and democratic objective judgements and to ensure the public are clear about what is regarded as significant locally, the Council has set the following thresholds:-~~

Type of Decision	Threshold	Key Decision?
(a) Decisions involving expenditure within relevant budget approved by Council	None.	No, unless significant effect on communities.

Type of Decision	Threshold	Key Decision?
(b) Decisions involving expenditure in excess of relevant budget approved by Council.	Any excess which exceeds the FPR virement rules.	Yes, if above threshold. If at or below threshold a key decision if significant effect on communities.
(c) Decisions on cash flow, investments and borrowings.	None.	No, unless significant effect on communities.
(d) Decisions to make savings.	None.	No, unless significant effect on communities.

- ~~(iv) In determining what should be regarded as likely to be "significant" in terms of the effects of executive decisions on communities living or working in an area of the district, the following factors are to be taken into account:-~~
 - ~~(a) decisions to propose any new policy or any change to an existing policy will be treated as a key decision;~~
 - ~~(b) decisions which impact on communities living or working in one ward or electoral division will be treated as a key decision if that impact is likely to be significant in terms of its effects;~~
 - ~~(c) in considering whether a decision is a key decision regard should be had, amongst other things, to the impact on amenity of a community and the quality of any service provided to a significant number of people; and~~

- ~~(d) decisions in respect of any emergency being dealt with under the Council's emergency plan arrangements will not be regarded as a key decision unless required to be so regarded by law.~~
- ~~(v) 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.~~

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Executive Cabinet

Subject to Article 13.08, the Executive Cabinet will follow the Executive Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by Overview and Scrutiny Committees

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

13.07 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 13.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 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.

References:

Chapter 7, DLTR Guidance

Regulations made under section 22, Local Government Act 2000

Article 14 – Finance, Contracts and Legal Matters

14.01 Financial management

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

14.02 Contracts

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

14.03 Legal proceedings

The Legal Services Manager is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions ~~by or on behalf~~ of the Council ~~or the Cabinet~~ or in any case where ~~either they~~ considers that such action is necessary to protect the Council's interests. Legal proceedings may also be taken by or on behalf of the Director of Customer Services and Business Transformation pertaining to revenues and/or benefit matters in accordance with the delegated powers contained in Part 3 of this Constitution.

14.04 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 Legal Services Manager, ~~Monitoring Officer~~, 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 a value exceeding £x – councils should insert an amount here appropriate to local circumstances 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.~~

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14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of ~~the Legal Services Manager, Monitoring Officer~~. 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 which in the opinion of the Legal Services Officer, Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by a Member of the Council and one of the said officers or some other person authorised by him/her. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

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~~References:~~

~~Sections 135, 151, 223 and 234, Local Government Act 1972
Part VIII, Local Government Finance Act 1988~~

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

~~The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.~~

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~~Protocol for monitoring and review of constitution by Monitoring Officer~~

~~A key role for the Monitoring Officer 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 Monitoring Officer may:

- ~~1. observe meetings of different parts of the member and officer structure;~~
- ~~2. undertake an audit trail of a sample of decisions;~~
- ~~3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and~~
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

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15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by Standards Committee ~~the Standards Committee, [to be determined]~~

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~~PROVIDED THAT the Monitoring Officer may from time to time make and publish the following changes:-~~

- ~~(i) such changes to Part 3 (Responsibility for Functions) as may be necessary to reflect any decision made by a person or body with the appropriate authority to delegate or sub-delegate powers to exercise executive or non-executive functions;~~
- ~~(ii) such changes as may be necessary to reflect any changes to the details included in the List of Cabinet Members (whether as a result of a decision of the Leader of the Council or otherwise);~~
- ~~(iii) such changes to Article 12 and/or Part 7 (Management Structure) as may be necessary to reflect any changes made by the Council, the Cabinet or otherwise, in the allocation of functions to officers;~~
- ~~(iv) such changes as may be necessary to reflect any changes made to the Council's Committee structure;~~

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- ~~(v) such changes as may be necessary to reflect any changes agreed by Full Council to the Members' Allowances Scheme;~~
- ~~(vi) such changes as may be necessary to reflect any changes made to the Proper Officer Functions;~~
- ~~(vii) such changes as may be necessary to reflect or as may be necessary to comply with or give effect to any legislative changes or requirements; and~~
- ~~(viii) such other changes of an editorial or consequential nature as may seem appropriate to make the Constitution internally consistent, up to date and readily understandable."~~

~~In addition any other means of publishing changes under (i) to (viii) above, the Monitoring Officer shall ensure that the changes are included on the next Standards Committee agenda for the Committee's information.~~

~~(b) The Monitoring Officer [in consultation with the Chief Executive and the group leaders] shall have the power to make minor amendments to the Constitution to correct errors or to comply with any legal requirement or to reflect changes in the Council's structure.~~

~~(b) **Change within a Mayoral form of Executive.** Unless the change relates only to the operation of Overview and Scrutiny Committees, any resolution of the full Council to approve a change will have no effect without the written consent of the Mayor.~~

(c) **Change from a ~~M~~mayoral form of ~~E~~xecutive to another form of ~~E~~xecutive or to alternative arrangements, or from alternative arrangements to a ~~M~~mayoral form of ~~E~~xecutive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the ~~M~~mayor's term of office.

(d) **Change from a ~~L~~eadership and ~~C~~abinet form of ~~E~~xecutive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

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References:

~~Sections 30 and 37, Local Government Act 2000~~

~~Chapters 10 and 15, DLTR Guidance~~

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended 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 more than one half of the whole number of Councillors are 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.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:
- Council Procedure Rules
 - Access to Information Procedure Rules
 - Budget and Policy Framework Procedure Rules
 - Cabinet Procedure Rules
 - Overview and Scrutiny Procedure Rules
 - Financial Procedure Rules
 - Contract Standing Orders
 - Officer Employment Procedure Rules

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16.02 Interpretation

The ruling of the Chairman of Council 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.

16.03 Publication

- (a) The Democratic Services and Scrutiny Manager will give a printed 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 Democratic Services and Scrutiny Manager 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.
- (c) The Democratic Services and Scrutiny Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees and Forums) (where applicable);
4. Article 11 (Joint arrangements) (where applicable);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

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Part 1 - Summary and Explanation

1.0 The Council's Constitution

The Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose and codes of practice are provided in separate rules and protocols in other parts of this Constitution.

2.0 What's in the Constitution?

Article 1 of the Constitution commits the Council to exercise all its powers and duties in accordance with the law. Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Executive (Article 7)
- Regulatory and other committees *in Council's operating executive arrangements* (Article 8/7)
- The Standards Committee (Article 9/8)
- Area [committees (Article 10/9)
- Joint arrangements (Article 11/10)
- Officers (Article 12/11)
- Decision making (Article 13/12)
- Finance, contracts and legal matters (Article 14/13)
- Review and revision of the Constitution (Article 15/14)
- Suspension, interpretation and publication of the Constitution (Article 16/15)

3.0 How the Council operates

The Council is composed of 56 councillors elected every four years. Councillors are democratically accountable to residents of their [ward]. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee trains and advises them on the code of conduct.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

At the Annual Meeting of the Council in the year of an ordinary election of Councillors, the Council will appoint one of the Councillors to the office of Leader of the Council for a term ending on the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for four years). The Leader will also appoint a Deputy Leader for the same term of office to act in his absence. However, in each Council Year the Leader will appoint between one and eight other Councillors to combine with the Leader and Deputy Leader to form a Cabinet. The Leader will then allocate a number of functional responsibilities (called a portfolio) to each of them. The Cabinet is responsible for an extensive range of functions in accordance with this Constitution and the policies and budget agreed by the Council. [See Articles 2 to 5.]

4.0 How Decisions are Made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. . When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or other confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

5.0 Overview and Scrutiny

There is an overview and scrutiny committee who supports the work of the Cabinet and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

7.0 The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

8.0 Citizens' Rights

Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the rights to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;

- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees as set out in [?];
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council using the Council's complaints process;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Democratic Services Team will also supply information about the rights of citizens to inspect agendas and reports and attend meetings.

Part 2 - Articles of the Constitution

Article 1 – The Constitution

1.01 Powers of the Council

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

1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Thanet District Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.04 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 may monitor and evaluate the operation of the Constitution as set out in Article 15 and may make changes to it at any time.

Article 2 – Members of the Council

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 56 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with the law applicable at the time of any election.

Eligibility. Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

2.02 Election and terms of Councillors

Election and terms. The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. 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.

2.03 Roles and functions of all Councillors

- (a) **Key roles.** All councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iii) effectively represent the interests of their ward and of individual constituents;
 - (iv) respond to constituents' enquiries and representations, fairly and impartially;
 - (v) participate in the governance and management of the Council;
 - (vi) maintain the highest standards of conduct and ethics; and
 - (vii) be eligible to represent the Council on other bodies.
- (b) **Rights and duties**
- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
 - (ii) Councillors will 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.
 - (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.04 Conduct

Councillors must at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in **Part ?** of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in **Part 7** of this Constitution.

Article 3 – Citizens and the Council

3.01 Citizens' rights

NB. These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.

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 area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend meetings of the executive when key decisions are being considered;
 - (iii) find out from the forward plan what key decisions will be taken by the executive and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the executive; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its complaints scheme;
 - (ii) the Ombudsman after using the Council's own complaints scheme;
 - (iii) about the conduct of a member if they have evidence which they believe shows that a member has breached the Council's code of conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

3.03 Contacting their local member

- (a) Citizens have the right to contact their local member about any matters of concern to them.
- (b) Citizens have the right to lobby any member about any matters of concern to them.

3.04 Contacting the Council

Citizens can contact the Council through its website, by email, in person or on the telephone.

Article 4 – The Full Council

4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Best Value Performance Plan;
 - Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Local Transport Plan;
 - Plans and strategies which together comprise the Development Plan.

 - Council's Corporate Plan;
 - Food Law Enforcement Service Plan;
 - The plan and strategy which comprise the Housing Investment Programme;
 - Local Agenda 21 Strategy.

Other plans and strategies which the council may decide should be adopted by the Council meeting

- (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 and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means 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 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

Except as otherwise allowed by **Article 13 and Article 15**, only the Council will 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;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting an allowances scheme under Article 2.05;

- (h) changing the name of the area;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) 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; and
- (l) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary 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 Cabinet.

Article 5 – Chairing the Council

5.01 Role and function of the chairman

The chairman of council and in his/her absence, the vice-chairman, will have the following roles and functions:

- Ceremonial role
- Chairing the council meeting

The Chairman will be elected by the Council annually. The chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. 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;
3. 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 Cabinet or hold committee chairs are able to hold the cabinet members and committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

Article 6 – Overview and Scrutiny Committee

6.01 Terms of reference

The Council will always appoint at least one overview and scrutiny committee to discharge the functions conferred by section 21 of the Local Government Act 2000 and set out in detail in 6.03 of this article.

6.02 General role

Within their terms of reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions; and
- (c) consider any matter affecting the area or its residents.

6.03 Specific functions

Terms of Reference

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet
- (b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet
- (c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6.
- (d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;
- (e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (g) 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;
- (h) to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.
- (i) to review external partnership working and the performance of external service providers.
- (j) to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation .
- (k) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet.
- (l) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.

6.04 Annual report. The Overview and scrutiny committee may report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.05 Proceedings of overview and scrutiny committee

The Overview and scrutiny committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 – The Cabinet

THE ROLE OF THE CABINET

7.01 Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.02 Form and composition

The Cabinet will consist of the leader of the Council together with the Deputy Leader and at least one but not more than 8 councillors appointed by the leader.

7.03 Leader

The Leader will be a councillor elected to the position of leader by the Council. . The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
or
- (c) he/she is no longer a councillor; or
- (d) he/she is removed from office by resolution of the Council.

7.04 Replacement of Leader upon Resignation etc.

Should the Leader cease to hold office for any reason other than removal by a resolution of the Council, the Council will elect a new Leader at the next Ordinary Meeting of Council. Should the Leader cease to hold office by resolution of the Council, the Council will at the same meeting elect a new Leader. In either case the term of office of the new Leader will be the unexpired residue of the term of office of the former Leader.

7.05 Deputy Leader

Upon election as Leader, the Leader will appoint a Councillor to the office of Deputy Leader. The Deputy Leader will have full power to act in the absence of the Leader and will hold office until the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for a term of four years), unless:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension);
or
- (c) he/she ceases for any reason to be a Councillor; or
- (d) he/she is removed from office by the Leader, in which case the Leader will give notice in writing to that effect to the proper officer who shall immediately give a copy of the notice to the Deputy Leader and to the Chief Executive (unless it is clear that this has

already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

7.06 Replacement of Deputy Leader upon Resignation etc.

Should the Deputy Leader cease to hold office for any reason other than suspension from being a Councillor, the Leader will appoint a Councillor as the new Deputy Leader and will notify the Council of the identity of the new Deputy Leader at the next Ordinary Meeting of Council. The term of office of the new Deputy Leader will be the unexpired residue of the term of office of the former Deputy Leader.

7.07 Other Cabinet members

In each Council Year in which he or she holds office, the Leader will:

- (a) within the prescribed limits, determine the number of Councillors who together with the Leader and Deputy Leader shall comprise the Cabinet for the ensuing Council Year;
- (b) be responsible for appointing them;
- (c) notify Council at the Annual Meeting of his or her decisions in relation to (a) and (b) above.

7.08 Term of office of other Cabinet members

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer councillors; or
- (d) they are removed from office by the Leader in which case the Leader will give written notice of any removal to the proper officer who shall immediately give a copy of the notice to the Cabinet member in question and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

7.09 Cabinet Portfolios

In each Council Year the Leader will allocate a range of functional responsibilities (called 'a portfolio') to the members of the Cabinet and will at the Annual Meeting also notify Council of such allocation and will cause that to be recorded in the Constitution of the Council.

7.10 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7.11 Responsibility for functions

The leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.

Article 8 – Regulatory and other Committees

8.01 Regulatory and other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution – ‘Responsibility for Council Functions’ – to discharge the functions described.

This note is added for information only and does not comprise part of this Constitution.

The Committees appointed as at the date hereof are as follows:-

- | | | | |
|-----|---|---|---|
| 1. | Planning Committee | - | 15 Members |
| 2. | Licensing Board | - | 15 Members |
| 3. | Governance and Audit Committee | - | 9 Members |
| 4. | Standards Committee | - | 7 Thanet District Council Members plus 4 “independent” Members and 3 Parish/Town Council Members |
| 5. | Overview and Scrutiny Panel | - | 16 Members |
| 6. | Joint Transportation Board | - | 8 Thanet District Council Members plus the 8 Kent County Council Councillors representing Thanet wards and 1 Thanet Association of Parish Councils representative |
| 7. | Constitutional Review Working Party | - | 4 Thanet District Council Members plus 2 “independent” Members |
| 8. | Standards (Assessment) Sub Committee | | Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative |
| 9. | Standards (Hearings) Sub-Committee | | Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a Town or Parish Councillor, at least one Town/Parish Representative |
| 10. | General Purposes Committee | | 10 Members |
| 11. | Boundary and Electoral Arrangements Working Party | | 7 Members |

Article 9 – The Standards Committee

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Composition

(a) **Membership.** The Standards Committee will be composed of at least:

- Seven councillors [other than the leader];
- Four independent members;
- Three members of a parish council wholly or mainly in the Council's area (Parish Members).

(b) **Independent members.** Independent members will be entitled to vote at meetings;

(c) **Parish members.** At least one parish member must be present when matters relating to those parish councils or their members are being considered;

(d) **Chairing the Committee.** The Chairman and Vice chairman of the Committee shall be drawn from among the independent members.

9.03 Role and Function

The Standards Committee will have the following roles and functions:

(a) To promote and maintain high ethical standards of conduct for elected and co-opted Members.

(b) To help elected and co-opted Members to observe the Members' Code of Conduct.

(c) To give the Council advice on adoption or revision of the Members' Code of Conduct and on informal codes/protocols covering matters such as planning and Member/Officer relations.

(d) To monitor the effectiveness of the Members' Code of Conduct.

(e) To train or arrange training for elected and co-opted Members on matters relating to the Members' Code of Conduct.

(f) To deal with complaints that elected and co-opted Members have breached the Members' Code of Conduct and in connection with this function:

(i) To develop and adopt:

- Assessment Criteria for dealing with complaints;
- Policies for dealing with vexatious, persistent and anonymous complaints and requests by complainants for confidentiality;
- Arrangements for dealing with complaints and publicising the arrangements;
- Procedures for dealing with local investigations; and
- Such other provisions and procedures as may be required.

(ii) To establish and maintain Assessment and Hearings Sub-Committees.

(g) To grant dispensations under S.33 Localism Act 2011.

- (h) To conduct Hearings and make determinations in respect of complaints that elected and co-opted Members have breached the Members' Code of Conduct in accordance with relevant statutory and Constitutional requirements and in connection with this function:
 - (i) To develop and adopt procedures for dealing with such Hearings; and
 - (ii) To establish and maintain a **Hearings Sub-Committee** with its own terms of reference.
- (i) To undertake the functions set out above in respect of [insert names of parish councils if any].

Note: The procedures for dealing with Complaints against Members alleging a breach of the Members' Code of Conduct are set out in **Part 4(i)** of the Constitution.

[NB insert extra functions as agreed]

Article 10 – Area Committees and Forums

10.01 Conflicts of interest – membership of area committees and overview and scrutiny committees

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

10.02 Area Committees – access to information

Area committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.03 Cabinet members on area committees

A member of the Cabinet [other than the council manager] may serve on an area committee if otherwise eligible to do so as a councillor.

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. [Such arrangements may involve the appointment of a joint committee with these other local authorities].
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
 - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
 - the joint committee is between a county Council and a single district Council and relates to functions of the executive of the county council. In such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint Committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

11.04 Delegation to and from other local authorities

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

11.05 Contracting out

The Council for functions which are not executive functions and the Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 12 – Officers

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, who will be designated chief officers:

The full Council may delegate these functions to another body or officer.

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Corporate Programming and Executive Support Unit.
Director – “Section 151 Officer”	Corporate Services .
Director	Community Services
Director	Operational Services

- (c) Head of Paid Service, Monitoring Officer and Chief Financial Officer. The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Legal Services Manager (Monitoring Officer)	Monitoring Officer
Director of Corporate Services	Chief Finance Officer

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

The roles of these posts are underpinned by the fundamental principles of political neutrality and service to the whole Council

- (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.
- (e) **Accountability.** Within the fundamental principles of political neutrality and service to the whole Council, the Head of Paid Service shall report to the Leader of the Council concerning the efficient and effective implementation of the Council’s policies. The Chief Finance Officer shall similarly report to the Head of Paid Service. They shall both ensure that other Cabinet Members are appropriately briefed regarding matters relevant to their individual portfolio areas.

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

- (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 in accordance with the powers and duties contained in the Local Government and Housing Act 1989.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he/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 Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d)
- (e) **Conducting investigations.** The Monitoring Officer will conduct or commission investigations into complaints about the conduct of members and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible in accordance with this Constitution.
- (g) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (h) **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.
- (i) **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 (“Section 151 Officer”)

- (a) Ensuring lawfulness and financial prudence of decision making in accordance with the powers and duties contained in the Local Government Act 1972 and the Local Government Finance Act 1988. 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 Cabinet in relation to an Executive function and the Council’s external auditor if he/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 any elected

Mayor of the Council 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.

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 set out in Part 5 of this Constitution.

12.07 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

Reference:

Chapter 8, DLTR Guidance

[See further:-

On "Management Structure", see Part 7 (and Appendix of Property Officer Functions).]

Article 13 – Decision Making

13.01 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.

13.02 Principles of decision making

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

- (a) the presumption in favour of openness and transparency;
- (b) the need for consultation with interested parties;
- (c) the need to take account of relevant professional advice from appropriate staff;
- (d) the need for clarity of aims and desired outcomes;
- (e) the need to identify the range of options considered.
- (f) the need to give reasons and explanation for a decision.

13.03 Types of decision

(a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

(b) Key decisions.

(i) *Councils should insert into this part of the Constitution the definition of key decisions contained in regulations. Sourced example from another council*

(i) A key decision which must be included in the Forward Plan is an Executive decision which is likely:

(a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates (the Council has decided that any decision involving expenditure in excess of £250,000, excluding any decisions relating to investment of Council monies as part of Treasury Management procedures, will be a key decision); or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in

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(ii) 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.

13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Cabinet

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by overview and scrutiny committees

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

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

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

13.08 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

14.01 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.

14.02 Contracts

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

14.03 Legal proceedings

The Legal Services Manager 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 or in any case where they consider that such action is necessary to protect the Council's interests. Legal proceedings may also be taken by or on behalf of the Director of Customer Services and Business Transformation pertaining to revenues and/or benefit matters in accordance with the delegated powers contained in Part 3 of this Constitution.

14.04 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 Legal Services Manager 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 a value exceeding **£[x – councils should insert an amount here appropriate to local circumstances]** 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.

14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of **the Legal Services Manager, Monitoring Officer**. 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 which in the opinion of the Legal Services Officer, Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by a Member of the Council and one of the said officers or some other person authorised by him/her. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

Article 15 – Review and Revision of the Constitution

15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

In undertaking this task the monitoring officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by Standards Committee [to be determined]
- (b) The Monitoring Officer [in consultation with the Chief Executive and the group leaders] shall have the power to make minor amendments to the Constitution to correct errors or to comply with any legal requirement or to reflect changes in the Council's structure.
- (c) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.
- (d) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

Article 16 – Suspension, Interpretation and Publication of the Constitution

16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended 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 more than one half of the whole number of councillors are 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.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:
- Council Procedure Rules
 - Access to Information Procedure Rules
 - Budget and Policy Framework Procedure Rules
 - Cabinet Procedure Rules
 - Overview and Scrutiny Procedure Rules
 - Financial Procedure Rules
 - Contract Standing Orders
 - Officer Employment Procedure Rules

16.02 Interpretation

The ruling of the chairman of council 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.

16.03 Publication

- (a) The Democratic Services and Scrutiny Manager will give a printed 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 Democratic Services and Scrutiny Manager 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.
- (c) The Democratic Services and Scrutiny Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the Executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 10 (Area Committees and Forums) (where applicable);
4. Article 11 (Joint arrangements) (where applicable);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).