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Date: **7 September 2015**
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STANDARDS COMMITTEE

15 SEPTEMBER 2015

A meeting of the Standards Committee will be held at **7.00 pm on Tuesday, 15 September 2015** in the Austen Room, Cecil Street, Margate, Kent.

Membership:

Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Vice-Chairman)
Councillors: Way, Wright, Ashbee, Braidwood, Buckley, Dexter, J Fairbrass, Johnston and Tomlinson

SUPPLEMENTARY AGENDA

<u>Item</u> <u>No</u>	<u>Subject</u>
4.	<u>CONSTITUTIONAL REVIEW</u> (Pages 1 - 74)

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Review of the Constitution and Member/Officer Protocol

To: **Standards Committee – 15 September 2015**

By: **Monitoring Officer**

Classification: **Unrestricted**

Ward: **All wards are affected**

Summary: **The Committee are asked to consider the elements of the revised constitution for recommendation to Council.**

For Decision

1.0 Introduction and Background

1.1 Following the LGA Peer Review it was identified that the Constitution should be reviewed and updated to make it clearer and easier to understand and to reflect current practices as well as amend legislative provisions where appropriate.

1.2 The Council commissioned Essex Legal Services to undertake this review in conjunction with council officers. The work undertaken by Essex Legal Services has, in accordance with the Constitution, been reviewed in detail by the Constitutional Review Working Party at a number of recent meetings.

2.0 The Current Situation

2.1 This report represents the first tranche of that work and includes the following parts of the Constitution which are attached:

- The Protocol on Member/Officer Relations
- Part 1 - Summary and Explanation of the Constitution
- Part 2 – Articles of the Constitution
- Part 4 - Rules of Procedure

2.2 Further tranches of the revised Constitution will be brought to future meetings with a final composite document being taken to Council in December.

3.0 Options

3.1 To agree the revised parts of the Constitution as drafted and recommend them to Council

3.2 To amend the revised Constitution as drafted and recommend them to Council.

4.0 Corporate Implications

4.1 Financial and VAT

4.1.1 The financial implications relate to the costs of Essex Legal Services which have already been budgeted for and the costs of printing the new Constitution.

4.2 Legal

4.2.1 Under the Local Government and Housing Act 1989 the Monitoring Officer is responsible for the operation of the Council's Constitution.

4.2.2 Under section 37 of the Local Government Act 2000, a local authority which is operating executive arrangements must prepare and keep up to date a document (referred to as their constitution) which contains:

- (a) Such information as the Secretary of State may direct,
- (b) A copy of the authorities standing orders for the time being,
- (c) A copy of the authority's code of conduct for the time being under section 51, and
- (d) Such other information (if any) as the authority consider appropriate.

A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

4.3 Corporate

4.3.1 This review of the Constitution has been undertaken as part of the action plan following the peer review by the Local Government Association.

4.4 Equity and Equalities

4.4.1 The document when completed will be published in appropriate formats to comply with our public sector equality duties.

5.0 Recommendation(s)

5.1 The Committee consider the revised parts of the Council's Constitution and recommend them to Council with amendment if appropriate.

Contact Officer:	<i>Timothy Howes, Monitoring Officer tim.howes@thanet.gov.uk</i>
Reporting to:	<i>Madeline Homer, Chief Executive</i>

Annex List

Annex 1	Draft Member/Officer Protocol
Annex 2	Draft Constitution – Parts 1 and 2
Annex 3	Draft Constitution Part 4 - Rules of Procedure

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. A key principle for Officers is their 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. 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 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 general principles governing Members' conduct enshrined in law. These are:

- 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.

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 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 And may take a role as Cabinet member	Impartial
Set policy and strategy	Ensure operation delivery and provide advice
Bound by a statutory code of conduct	Bound by their conduct of employment

Involvement in Chief Officer appointments only	Day to day management of staff
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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, and/or the Monitoring Officer.
- 6.1.2 Collectively Members are the ultimate policy-makers, determine the core values of the Council and approve 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 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 members in challenging 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.

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 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 manage 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 which have been properly approved in accordance with the requirement of the law and the Council’s Constitution and duly minuted.
- 6.2.4 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 must not allow their professional judgment and advice to be influenced by their 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 over 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 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?]*

- 7.2.1 The Chairman of the Overview and Scrutiny 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.
- 7.2.2 The Overview and Scrutiny Panel 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.
- 7.2.3 When making requests for Officer attendance, scrutiny members shall have regard to the work load of Officers.
- 7.2.4 It is recognised that Officers appearing before the Overview and Scrutiny 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.
- 7.2.5 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.
- 7.2.6 Officers must also be prepared to justify decisions they have taken under delegated powers.
- 7.2.7 In giving evidence Officers must not be asked to give political views.
- 7.2.8 Officers should respect Members in the way they respond to Member's questions.
- 7.2.9 Members should not question Officers in a way that could be interpreted as harassment neither should they ask about matters of a disciplinary nature.
- 7.2.10 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 the personal performance of Officers. The matter is not an overview and scrutiny function.
- 7.2.11 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 Cabinet business

8.1 Roles

- 8.1.1 Cabinet 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 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.
- 8.1.4 In addition to individual Members of the Cabinet, the Chief Executive, Directors (including the Section 151 Officer) and the Monitoring Officer have the right to submit papers to the Cabinet as a whole or to individual Cabinet Members for consideration.
- 8.1.5 Before any formal decisions are taken by the 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 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.
- 8.1.6 The Chief Executive, Directors and Cabinet Members shall agree mutually convenient methods of regular contact including regular meetings between 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 Cabinet will seek appropriate professional advice including, without exception, the Chief Executive, the Monitoring Officer and Section 151 Officer (or their deputies in their absence), and will not direct Officers in the framing of recommendations.
- 8.1.7 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.

8.1.8 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 Decisions by individual members

8.2.1 An individual Cabinet 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 Cabinet Members on cross-cutting issues.

8.2.2 Executive Members when making decisions must state the reasons for those decisions in the written record.

8.3 Decisions made by officers under delegated powers

8.3.1 Officers taking decisions under their delegated powers must exercise their judgement and consult with the relevant Cabinet 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) has/have previously informed the Officer that particular decisions or classes of decisions may have such implications.

8.3.2 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.

8.3.3 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.

8.3.4 Officers must observe the requirements set out in the officer delegations in Part 3 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 ?

8.3.5 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.

8.3.6 Officers should also keep Cabinet Members informed in advance of any decisions which they take that have wider policy implications.

8.3.7 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.

8.4 Decisions affecting Council staff

8.4.1 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;
- Hearing and determining appeals.

8.4.2 Members shall not act outside these roles.

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

8.4.4 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.

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

8.4.6 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. 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 and which they have a duty to consider.
- 9.1.3 Approaches by Members to other Officers, are proper 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 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 consistent advice to each.
- 9.2.11 Only a Chief Officer or their nominee shall be entitled to attend a political group meeting.
- 9.2.12 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.
- 9.2.13 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.
- 9.2.14 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 photocopying and computer equipment to assist them in discharging their role as Members. These 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:

- 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]

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 residents and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Residents 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 that are made by members. 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, the meeting will generally be open for the public to attend except where matters that fall into the statutory exemptions apply in which case there will be a private session. The exemptions apply broadly to personal or commercially confidential matters. 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 residents 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 Panel monitors the decisions of the Cabinet and of individual Cabinet members. 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.

6.0 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.

7.0 Residents' Rights

Members of the public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific council services, they may have additional rights. These are not covered in this Constitution.

Residents 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 residents 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 residents, businesses and other organisations;
2. support the active involvement of residents 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 for which they were directly responsible;
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;
 - (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 ?** of this Constitution.

Article 3 – Residents and the Council

3.01 Residents' rights

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

Residents 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.** Residents 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.** Residents 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 Cabinet and when;
 - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
 - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Residents have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny committees.
- (d) **Complaints.** Residents 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 Residents' responsibilities

Residents 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 the Council

Residents 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 will 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.

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].
- (j) To approve proposed amendments to the Constitution of the Council except those approved by the Monitoring Officer under the provisions of Article 12 of this document.

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 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.

10.02 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.

10.03 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.

10.04 Cabinet members on area committees

A member of the Cabinet 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 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) **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.
- (e) **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.
- (f) **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.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 Functions of the Chief Finance Officer (“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.

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 due consultation;
- (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;
- (g) the need to ensure that all necessary requirements of legality and confidence are observed.

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.

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. Such proposals to be formulated by the Constitutional Review Working Group.
- (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).

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Part 4 - Rules of Procedure

Part 4 - Rules of Procedure

Council Procedure Rules

1. Meetings of the Council

1.1 Types of Council meeting

There may be three types of Council meeting:

- (a) The annual meeting
- (b) Ordinary meetings
- (c) Extraordinary meetings

1.2 Annual meeting of the Council

The Council shall hold an annual meeting in the year of ordinary election of members not earlier than the eighth day and not later than the twenty first day of the date of retirement of Members

In any one year when there are no elections to the Council, the annual meeting will be held on a date in May to be fixed by the Council.

1.3 Extraordinary meetings

Those listed below may require The Proper Officer (who for this purpose shall be [to be completed]) to call Council meetings in addition to ordinary meetings:

- (a) the Council by resolution or
- (b) the Chairman of the Council or
- (c) a Statutory Officer of the authority or
- (d) any five members may together call the meeting and the Chief Executive shall make arrangements accordingly provided they have signed a requisition specifying the business to be considered at the meeting and presented the requisition to the Chairman and they have refused to call a meeting or failed within seven days of the presentation to call a meeting.

2. Agenda

2.1 Agenda for Annual Meeting

The annual meeting will consider the following:-

- (i) elect a person to preside if the Chairman of Council is not present;
- (ii) elect the Chairman of Council;
- (iii) elect the Vice-Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any declarations of interest from members;
- (vi) receive any announcements from the Chairman and/or Chief Executive;
- (vii) in the year of an ordinary election of Councillors, elect the Leader of the Council for a term of office ending on the date of the Annual Meeting of Council in the year of the next ordinary election of Councillors. (A casual vacancy in the office of Leader of the Council shall be filled for the remainder of the term of office at the next Ordinary Meeting of Council after the vacancy has arisen);
- (viii) in the year of an ordinary election of Councillors receive from the Leader notification of the councillor appointed as Deputy Leader to act in his or her absence;
- (ix) receive from the Leader notification of the number and names of Councillors who together with the Leader and Deputy Leader will comprise the Cabinet for the ensuing Council year together with the details of the portfolio responsibilities allocated to each of them;
- (x) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (xi) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year;
- (xiii) consider any business set out in the notice convening the meeting.

2.2 Agenda for Ordinary Meetings

Ordinary meetings of the Council shall commence at 7.00 pm unless otherwise agreed with the Chairman and will take place on a Thursday in accordance with a programme decided at the Council's annual meeting. Subject to rule 2.7, ordinary meetings will:

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;

- (ii) deal with any business required by statute to be done before any other business;
- (iii) approve the minutes of the last meeting;
- (iv) receive any announcements from the Chairman, Leader, members of the Cabinet or the Chief Executive;
- (v) receive any declarations of interest from members;
- (vi) receive petitions from the public;
- (vii) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting; [Pursuant to Rule?]
- (viii) receive reports from the Cabinet Leader, Members of the Cabinet and the Council's Committees etc.

Except for items under (i), (ii) or (iii) of Rule 2.2 the order of business may be varied at the Chairman's discretion or by a resolution passed on a motion that has been moved and seconded which shall be put without discussion.

2.3 Agenda for Extraordinary Meetings

Business at extraordinary meetings of the Council shall be restricted to the following:

- (a) to appoint a Member to preside at the meeting if neither the Chairman nor the Deputy Chairman are present and able to preside;
- (b) to receive apologies for absence from Members;
- (c) to receive any declarations of interest from Members and Officers;
- (d) to consider any business set out in the notice convening the meeting;
- (e) to consider any matter which, by reason of special circumstances (which are to be specified in the minutes of the meeting), the Chairman considers should be considered at the meeting as a matter of urgency.

No other business will be transacted.

2.4 Leaders Report

The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council.

The Leaders of any other political group may comment on the Leader's report. The comments of the Leaders of the other political groups shall be limited each to five minutes. The other Group Leaders will comment in an order determined by the number of Councillors within those political groups, with the largest group commenting first, and so on.

The Leader has a right of reply to each Group Leader limited to two minutes, in hierarchical order, to any comments made on his/her report.

The Leader of the Council, the Leader of the Opposition and the Leader of any other political group may appoint substitutes to speak on their behalf.

No motions may be moved nor resolutions passed under this item.

2.5 Related Items

The Chairman shall also have discretion to decide that related items of business may be dealt with in accordance with such procedure as the Chairman shall consider is most conducive to the despatch of business.

2.6 Application to Committees

The Chairman of any Committee or Sub-Committee shall have the discretion to vary the order of business and decide on related items of business in accordance with such procedure as the Chairman shall consider is most conducive to the despatch of business.

2.7 Budget-setting meetings of the Council

Apart from the essential items of apologies for absence, minutes of previous meeting and declarations of interest, the only items that will be considered at budget-setting meetings of the Council will be the budget and associated items, subject to the Chairman of Council having discretion to accept additional items; but only in exceptional or urgent circumstances.

3. Motions and Amendments

Motions on Notice

- 3.1 Any one or more Members of the Council may by notice received by the appropriate person no later than 10:00 am, 11 working days before the day of the Council meeting; require the Council to consider a motion.
- 3.2 The Monitoring Officer shall record all such notices of motion (not including rejected notice) in the order in which they are received and such record shall be open to public inspection on request.
- 3.3 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it save that
- 3.4 Where they consider that the notice of motion, statement or consideration of a notice of motion is likely to result in disclosure of confidential exempt information, in which case they may group such notices of a motion together with other items of business which are in their opinion likely to involve the exclusion of press and public during their consideration.
- 3.5 There will be a thirty minute time limit for moving and debating motions on notice.

Amendments

- 3.6 Subject to Rule 3.9 notice of an amendment to a recommendation or motion on the agenda for a Council meeting may be given by two members to the Monitoring Officer up to 12 noon on the day of Council. Only motions which can be moved without notice or amendments to recommendations arising from Officers' reports will be accepted without notice.

Putting the Motion at the Meeting

- 3.7 The Member whose name appears first on the Notice will move the motion during his or her speech and call for a seconder. If seconded, a Member from the controlling political group will be entitled to a reply, the motion shall then stand referred without further discussion to the Cabinet or appropriate Committee for determination or report unless the Council decides to debate the motion in accordance with Rule 16.

Scope

- 3.8 (a)
- i. Motions must be about matters for which the Council has a responsibility or which affect the district.
 - ii. Motions must not relate to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a member of the Council.
 - iii. Motions must be expressed in such a form that it shall conform with the requirements of the Council Procedure Rules and be competent for the Council if it so desires to pass it as a lawful and valid resolution. If it is not so expressed the Chairman shall rule it out of order.
 - iv. Where a motion on notice would, if adopted, constitute the exercise of an executive function, that motion must be referred to the Cabinet (or relevant Cabinet portfolio holder as appropriate) for decision;
 - v. The Chairman shall rule out of order any motion on notice that relates to the adoption of, or amendment to, a policy falling within the Council's adopted Policy Framework if that policy or amendment (as the case may be) has not first been proposed by the Cabinet and considered by the Overview and Scrutiny Panel;
 - vi. The Chairman shall rule out of order any motion on notice that proposes the adoption of, or amendment to, any policy outside the adopted Policy Framework which by law or this Constitution is the sole responsibility of the Cabinet;
 - vii. Any motion on notice that proposes the adoption of a policy or the taking of a decision where Council has not received a report from the officers setting out the technical, legal and financial implications of adopting the policy or taking the decision in question shall only be debated. Following the conclusion of the debate, the only action that may be taken is to refer the motion to Cabinet for consideration.

- viii. The Council should not debate any motion which would give rise to a significant change to income of the Council, to its expenditure or contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer as appropriate setting out the legal or financial effect of the motion.
 - ix. If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of Section 100(A)(2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matters shall not be the subject of discussion until the Council or Committee as case may be, has decided whether or not the power to exclude the public under Section 100(A)(2) of the Local Government Act 1972 shall be exercised.
 - x. A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except in accordance with Rules 8.3.17 and 18 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
 - xi. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rules 8.3.17 and 18 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
- (b) No Member shall subscribe to more than two notices of motion on an agenda at the same time.
 - (c) Motions submitted to Committees must be in the name of a member of the Committee.

Rejecting Motions on Notice

3.9 The Chairman of Council may rule out of order Motions on Notice that in his opinion:

- (a) are defamatory in nature;
- (b) are frivolous in nature; or
- (c) contain offensive language.

where the Chairman rejects a notice of motion, they shall inform the Member who submitted the notice as soon as practicable prior to the publication of the agenda and shall not include the rejected notice of motion in the public record or agenda.

4.0 Committees and Sub-Committees

4.1 Functions

Every Committee and Sub-Committee shall continue to discharge the functions delegated to them until the Council or relevant Committee resolve otherwise.

4.2 Recommending Delegated Powers

A Committee or Sub-Committee may decide to recommend any matter (for which it has been given delegated powers) to the Council or its parent Committee as the case may be.

4.3 Duration of Appointment

Subject to Section 102(5) of the Local Government Act 1972, (Councillor not re-elected to cease to be a member of a Committee) and paragraph 3.5 below, every person appointed as a member of a Committee shall continue as such until the appointment is terminated by the Authority. This Rule shall also apply to Sub-Committees and Working Parties.

4.4 Political Balance

(i) Whenever:

- (a) the Council, resolves or is required to review the allocation of seats between political groups, or
- (b) a Committee resolves or is required to review the allocation of seats on a Sub-Committee between political groups

the Proper Officer shall submit a report to the Council, the Cabinet or Committee (as the case may be), showing what allocation of seats would meet the requirements of Section 15(4) of the Local Government and Housing Act 1989.

(ii) In the light of such a report, the Council or relevant Committee shall determine the allocation of seats to political groups.

4.5 Allocation of Seats to Political Groups

Whenever an appointment of a member of a Committee or Sub-Committee falls to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be determined in accordance with such wishes, then the Council or relevant Committee at a meeting at which the wishes of the political group are expressed, or at the next meeting after those wishes are expressed, shall endorse those wishes accordingly.

4.6 Appointment of Sub-Committees and Working Parties

Subject to any resolutions by the Council, every Committee may appoint Sub-Committees or Working Parties for such purposes as they think fit within the remit of the responsibilities of the Committee, and may make arrangements for a Sub-Committee to discharge any of the functions for the authority which the Committee may discharge.

4.7 Parent Committees

Every Member, except co-opted members, of a Sub-Committee shall be a Member of its Parent Committee.

5.0 Appointment of Substitute Members of Committees, Sub-Committees and Working Parties

5.1 Allocation

The Council will appoint as substitute members of Committees and Sub-Committees those members nominated by each political group. Political groups may nominate every other member of the group provided that neither the Chairman nor Vice-Chairman of Council nor any member of the Cabinet shall be eligible to be a substitute member at any Committee or Sub-Committee on which either the Chairman or Vice-Chairman or a member of the Cabinet may not sit.

5.2 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

5.3 Substitution

- (i) It shall be the duty of Groups themselves to arrange for the attendance of substitute Members. As far as committees and sub-committees to which political balance rules apply, the substitute Member appointed shall be a member of the same political group as the Member being substituted.
- (ii) The Member Services Officer must be notified of the attendance of a substitute member before the commencement of any item of business.
- (iii) If a substitute Member is present at any meeting and the appointed Member subsequently attends during the course of the proceedings, the substitute Member shall withdraw from taking any further part in the meeting at the conclusion of the item under discussion.
- (iv) No substitute Member should be eligible to Chair a meeting if an appointed Member of the Committee or Board is present and willing to take the Chair.
- (v) In relation to the determination of any applications made under the Licensing Act 2003, no Member shall be eligible to be a substitute on the Licensing Board or on a sub-committee established by it.

5.4 Working Parties

These rules shall also apply to Working Parties.

6.0 Election of Chairman and Vice-Chairman of Committees

6.1 Appointment of Chairmen and Vice-Chairmen

Subject to Rules 6.2 and 6.3, the Chairmen and Vice-Chairmen of Committees shall be appointed by Council at its Annual Meeting.

6.2 Sub-Committees, Advisory Groups and Working Parties

All Sub-Committees, Advisory Groups and Working Parties shall elect at their first meeting after the Annual Council Meeting, before proceeding to other business, from amongst their Members a Chairman for the ensuing year, and shall then appoint a Vice-Chairman for the ensuing year.

6.3 Appointment of Chairmen and Vice-Chairmen of Scrutiny Panels

The Chairman and Vice-Chairman of any panel shall not both be from the same political group. The ruling group will nominate the Chairman of the Policy Development Panel and the Vice-Chairmen of two other Panels of their choice and the largest opposition group should nominate the Chairmen of the Executive Scrutiny Panel and the Finance, Best Value and Performance Review Panel and the Vice-Chairman of the remaining Panel.

In the event of two or more opposition groups having the same number of members the matter shall be decided by a majority of the opposition Members in Council and in the event of default by the Council itself.

6.4 Members not eligible to stand for election

- (i) The Chairman and Vice-Chairman of the Council shall not be eligible for election as Chairman or Vice-Chairman of a Standing Committee, Sub-Committee or Working Party.
- (ii) No Member shall be Chairman of more than one Standing Committee.

6.5 Vacancies

A casual vacancy in the Office of Chairman or Vice-Chairman of a Committee, Sub-Committee, Advisory Group or Working Party shall be filled as soon as practicable and by the relevant Committee.

7.0 Time and Place of Meetings

7.1 Timings of Committee Meetings

Committee	Meeting time
Council	7.00 pm
Cabinet	7.00 pm
Governance and Audit Committee	7.00 pm
Joint Transportation Board	7.00 pm
Overview and Scrutiny Panel	7.00 pm
Planning Committee	7.00 pm
Standards Committee	7.00 pm
Licensing Board	10.00 am
General Purposes Committee	Ad hoc
Licensing Sub Committee	Ad hoc
Overview and Scrutiny Working Parties	Ad hoc

The time and place of meetings will be determined by the Democratic Services and Scrutiny Manager and notified in the summons. The following guidelines will apply:

- (i) The days of the week shall be utilised as follows:-
 - Tuesdays to - Meetings of Committees, Sub-Committees,
 - Thursdays - Advisory Groups and Working Parties and adjourned, special or additional meetings thereof.
- (ii) The Monday following Council Meetings, or the Tuesday if the Monday is a Bank Holiday, shall be kept clear of meetings to facilitate adjournment of Council to that day.
- (iii) The weeks in which scheduled Council Meetings fall will normally be kept clear of other meetings.
- (iv) The Calendar of Meetings shall generally include a two-week recess at Christmas and no meetings in August.

8.0 Notice of and Summons to Meetings

The Appropriate Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Appropriate Officer will give notice to the public of the time and place if any meeting in accordance with the Access to Information Rules. The agenda for a meeting will give the date, time and place of meeting, specify the business to be transacted, and will be accompanied by such reports as are available.

9.0 Chair of Meeting

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

10.0 Quorum

The quorum of a meeting will be one quarter of the whole number of members except for meetings of the Scrutiny Committee and Governance and Audit Committee where the quorum shall be one half of the whole number of members. During any meeting if the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

11.0 Duration of Meeting

11.1 Adjournment

Unless it is resolved to complete the item under discussion, meetings shall stand adjourned at 10.30 pm unless in the opinion of a majority of the Members thereof the business remaining to be dealt with can be concluded by 11.30 pm in which case the meeting may continue until 11.30 pm at which time it shall automatically stand adjourned.

11.2 Remaining Business

Consideration of any business not transacted shall be continued on the following Monday evening and thereafter on consecutive evenings at 7.00 pm except where Monday is a Bank Holiday in which case the business shall be continued on the following Tuesday evening and thereafter on consecutive evenings at 7.00 pm.

12.0 Petitions from the Public

12.1 The Council will receive, accept and deal with petitions from members of the public in accordance with the requirements of any Petitions Scheme from time to time adopted

by the Council. The Council's current Petitions Scheme is included in **Part 5** of the Council's constitution.

13.0 Questions by the Public and Press

13.1 General

Members of the public may ask questions of members of the Cabinet at ordinary meetings of the Council. The total time devoted to questions shall not exceed 30 minutes.

13.2 Order of questions

Questions will be asked in the order notice of them was received, except that the Chairman may group together similar questions.

13.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Appropriate Person at least five full working days before the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Council to whom it is to be put.

13.4 Number of questions

At any one meeting no person may submit more than one question, limited to fifty words.

13.5 Scope of questions

The Chief Executive will reject a question if it:

- is not about a matter for which the local authority has a responsibility or which affects the district;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- requires the disclosure of confidential or exempt information;
- If the questioner is not normally a resident of Thanet; or
- If a question relates to an individual planning or licensing application.

13.6 Asking the question at the meeting

The Chairman will invite the questioner to put the question to the member named in the notice. If the questioner is not present the question shall not be put and shall be answered in writing.

13.7 Absence of Member Named and Written answers

Any question which cannot be dealt with during public question time because of lack of time will be dealt with by a written answer. If the member to whom the question is directed is not present, the question will be answered by the Leader or another Member nominated by the Leader for the purpose unless it is inappropriate for the Leader to give an oral answer or to nominate another Member to give an oral answer, in which case the question will be dealt with by a written answer.

14.0 Questions by Members

14.1 On reports of the Cabinet or Committees

A member of the Council may during his or her speech ask the Leader or Chairman of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

14.2 The period allowed for reports, written and all questions and answers will not exceed 30 minutes without the leave of the Chair and such leave will only be granted in exceptional circumstance.

14.3 Questions on notice at full Council

Subject to Rule 13.5, a member of the Council may ask:

- a member of the Cabinet; or
- the Chairman of any Committee or Sub-Committee

a question on any matter in relation to which the Council has powers or duties or which affects the district.

14.4 Questions on notice at Committees and Sub-Committees

Subject to Rule 13.5, a member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that Committee or Sub-Committee.

14.5 Notice of questions

A member may only ask a question under Rule 13.3 or 13.4 if they have given at least five working days' notice in writing of the question, limited to fifty words, to the Member Services Manager. No Member shall submit more than one question.

14.6 Scope of questions

A question shall not be:

- defamatory, frivolous or offensive;

- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.

14.7 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within three working days to the questioner.

14.8 Supplementary question

A member asking a question under Rule 13.3 or 13.4 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

14.9 Timing

The questioner shall have two minutes for the initial question and one minute for the supplementary and the respondent shall have five minutes for the initial reply and two minutes for the supplementary.

14.10 Written questions

Where a member does not wish to put a question verbally the member may, subject to Rule 14.5, submit a question in writing to the Democratic Services Manager, by 10.00 am on the Friday before a Council meeting, any question to be asked of a member of the Cabinet or the Chairman of any Committee on any matter in relation to which the Council have powers or duties or which affects the District. This rule is subject to the following:

- (i) The number of questions which may be asked by any one Member under this Rule at any one meeting shall be limited to one.
- (ii) There shall be no discussion of any question or answer.
- (iii) Any answer may take the form of:-
 - (a) A written answer circulated to Members of the Council at the Council Meeting or as soon as possible thereafter. Provided that where a question cannot be answered at the Council Meeting and in all cases where the member concerned exercises his/her right not to answer under Rule 13.10(vi) the question and an explanation of the member's inability to answer or the reasons for his/her decision not to answer shall be circulated to all Members at the Council Meeting.
 - (b) Where the desired information is contained in a publication of the Council, a reference to that publication.

- (iv) All questions and answers shall be recorded in a Register to be maintained by the Democratic Services Manager.
- (v) The member concerned shall have power to decide that a question shall be not answered if he/she is satisfied that the public interest would not be served by it being raised or pursued or on any other ground which he/she may deem sufficient.
- (vi) The Chairman shall not allow any question containing unbecoming language, imputation of improper motives or reflections of a personal character.

15.0 Reports from the Cabinet and Committees

15.1 Reports from the Overview and Scrutiny Panel

At each of its ordinary meetings, Council will receive a written report introduced by the Chairman of the Overview and Scrutiny Panel on the work undertaken by the Overview and Scrutiny Panel since the last Council meeting. Such a report will be subject to comment or debate in the usual way.

16.0 Rules of debate

16.1 Motions Without Notice

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a Committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption or rejection of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3 ½ hours in duration;
- (m) to suspend a particular Council procedure rule;

- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 24.3 or to exclude them from the meeting under Rule 24.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

16.2 No speeches until motion seconded

No further debate shall take place after the mover has moved a proposal and spoken on the item until the motion has been seconded. This rule shall not apply to the Standards Committee or Licensing Board.

16.3 Right to require motion in writing

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

16.4 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

16.5 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Speeches made by the Leader, members of the Cabinet and Chairmen of Committees when presenting items or by a member winding up the debate may not exceed five minutes without the consent of the Chairman. No other speech may exceed three minutes without the consent of the Chairman. This rule shall not apply to the Standards Committee or Licensing Board or the Non-Executive Functions Committee (when it is dealing with appeals).

16.6 When a member may speak again

A member who has spoken on a motion shall not speak again without the consent of the Chairman whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another member;
- (b) to move a further amendment if the motion has been amended since he/she last spoke;
- (c) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

16.7 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

16.8 Alteration of motion

- (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

16.9 Withdrawal of motion

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

16.10 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

16.11 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 3 ½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 23.3 or to exclude them from the meeting under Rule 23.4.

16.12 Closure motions

- (a) A member who has not spoken on that item may move, without comment, the following motions at the end of a speech of another member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote.

If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

16.13 Point of order

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

16.14 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood or the correction of a erroneous reference to him/her in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

16.15 Motion to rescind a previous decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by more than 50% of the membership. This Rule shall not apply to motions moved following a recommendation to the Council made by the Cabinet or a Committee.

16.16 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by more than 50% of the membership or supported by the Chairman (or in his/her absence the Vice-Chairman). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

17.0 Voting

17.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put. No Member may cast a vote for another Member who is not present at the time the question is put.

17.2 Chairman's casting vote

If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote.

17.3 Show of hands

Unless a recorded vote is demanded under Rule 17.4 or required under Rule 17.6, the Chairman will take the vote by show of hands (and a count if requested), or by means of an electronic voting system, or if there is no dissent, by the affirmation of the meeting.

17.4 Recorded vote

If a majority of members present at the meeting demand it before the vote is taken, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

17.5 Right to require individual vote to be recorded

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

17.6 Recorded votes at Council budget decision meetings

A recorded vote will be required at a meeting of the Council on motions, amendments or substantive motions relating to the approval of the budget or setting of council tax, whereby there shall be recorded in the minutes the names of the Members who cast a vote for the motion/amendment or against the motion/amendment or who abstained from voting. As this is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 2001, it cannot be suspended under Council Procedure 29.1.

17.7 Voting on appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

18.0 Minutes

18.1 Signing the minutes

The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record.

18.2 Accuracy of minutes

The only part of the minutes that can be discussed is their accuracy, provided that any question of their accuracy has been raised by motion of which 24 hours' notice has been given to the Democratic Services Manager.

18.3 No requirement to sign minutes of previous meeting at extraordinary meeting

Minutes will only be signed at the Council meeting or at Ordinary Meetings.

19.0 Record of Attendance

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

20.0 Attendance at Meetings

20.1 General

Any Member of the Council who is not a member of the body in question may nevertheless attend any meeting of the Cabinet or of any Committee, Sub-Committee or Working Party. He/she may speak once only on any item if permission has been given by the Cabinet, Committee, Sub-Committee or Working Party before the commencement of debate on the item. The member shall not occupy a seat provided for members of the body in question until requested to do so by the person Chairing the meeting. The member may speak on one additional occasion on a point of order or by way of personal explanation.

This Rule shall not apply to the following bodies:-

- Management Appraisal Board (when acting)
- Licensing Board
- Appeals Panel
- General Purposes Committee when dealing with issues of officer employment
- Standards Committee

20.2 Attending meetings when Motions under Rule 15.3 will be discussed

A Member of the Council in whose name a motion under Rule 15.3 has been referred by Council to another Committee shall have notice of the meeting of the Committee, Sub-Committee or Working Party at which it is proposed to consider the motion and he/she, or in his/her absence his/her seconder, shall have the opportunity of speaking to explain the motion and taking part in the debate.

20.3 Attendance of Chairmen/Vice-Chairmen of Committees

The Chairman, or in his/her absence, the Vice-Chairman, of any Committee, may invite the Chairman, or in his/her absence the Vice-Chairman, of any other Committee of the Council to attend the meeting and take part in the debate when matters directly affecting the work of that other Committee are being discussed, provided that they shall have no voting rights.

20.4 Meetings of the Cabinet

This Rule shall also apply to meetings of the Cabinet and the Leader shall have a similar power to invite attendance at meetings of the Cabinet.

21.0 Special Meetings of Committees

Subject to the provisions of Rules 6 and ?:

21.1 Calling special meetings

Those listed below may call a special meeting of a Committee on any occasion in addition to ordinary meetings:

- (i) the Chairman (or in his or her absence the Vice-Chairman) of a Committee;
- (ii) the Chairman of the Council;
- (iii) the Chief Executive
- (iv) the Democratic Services Manager; and
- (v) any five members of the Committee (or at least one third of the number of members of the Committee if that is less than five) if they have signed a requisition presented to the Democratic Services Manager (the time and date (provided it is within 14 days of the receipt of the request) and the place of the meeting to be decided by the Chairman or Vice-Chairman of the Committee).

21.2 Business

No matter shall be dealt with at any special meeting of a Committee other than that specified in the request or requests received under Rule 21.1 for the meeting in question, except in accordance with Section 100B(4) of the Local Government Act 1972.

21.3 Timing

Special meetings shall be held on such dates and at such times as the proper officer may determine after consultation with the Chairman or Vice-Chairman of the Committee.

22.0 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 24 (Disturbance by Public).

23.0 Members' Conduct

23.1 Standing to speak

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the Chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation. However, if a Member is unable to stand through illness or disability,

the Chairman will ensure that they are given full and equal access to participation and debate.

23.2 Chairman standing

When the Chairman stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

23.3 Member not to be heard further

If a member persistently disregards the ruling of the Chairman by behaving improperly or offensively or deliberately obstructs business, the Chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

23.4 Member to leave the meeting

If the member continues to behave improperly after such a motion is carried, the Chairman may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

23.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary.

24.0 Disturbance by Public

24.1 Removal of member of the public

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

24.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

25.0 Suspension and Amendment of Council Procedure Rules

25.1 Suspension

All of these Council Rules of Procedure except Rule 17.6, 17.7 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the

duration of the meeting.

25.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

26.0 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.6, 3, 6-10, 13, 15-24 (but not 18.2 or 23.1) and Rules 26, 29 and 30 apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 20, 23.3-23.5, 24, 29 and 30.

27.0 Members' Correspondence

All correspondence from Members to persons or bodies outside of the Council shall be endorsed with the following wording (unless otherwise agreed by or on behalf of the Council):-

This letter is the personal responsibility of the writer; it has not been authorised by the Council and so nothing in this letter shall be taken as creating any legal or other obligation on the part of the Council.

28.0 Urgent Action by or on Behalf of Committees/Boards

- (1) If urgent action, which cannot await the next scheduled meeting, is necessary, such action may be taken by the Chief Executive or a Corporate Director or a Head of Service after consultation with the Chairman of the Committee, Board or relevant body holding the delegated power. The action and the reason for it will be reported in writing to the next meeting of the Committee or Board, etc. In addition such action will be reported on the TDC News unless it is the opinion of the relevant officer that to do so would be prejudicial to the interests of the Council and in that event an explanation of that opinion shall be reported to the appropriate Committee/Board, etc. The Democratic Services Manager shall keep a register of all such decisions and reasons which shall be open to inspection by Council Members during normal office hours.
- (2) In the absence of the Chairman the Vice-Chairman shall be authorised to act in his/her place.
- (3) The Democratic Services Manager shall ensure that a copy of every decision taken under this Rule is sent as soon as possible to the Chairman of each of the Council's Scrutiny Panels.

29.0 Use of mobile telephones during public meetings

- 29.1 Council Members, Officers and accredited journalists and members of the public must ensure that their mobile communications devices are switched to silent during all public meetings of the Council.

30.0 Audio and Visual recordings of Council Meetings

- 30.1 Audio or visual recordings shall be allowed in accordance with the "Protocol for Filming and Recording of Council meetings" which is included in Part 5 of this constitution.