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CONSTITUTIONAL REVIEW WORKING PARTY

1 APRIL 2010

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Thursday, 1 April 2010** in the Turner Room, Cecil Street, Margate, Kent.

Membership:

Independent Members: R Hills (Chairman) and B Hinchley (Vice-Chairman);

Councillors: D Green, Gregory, Harrison, Latchford and Mrs Roberts

SUPPLEMENTARY A G E N D A

Item

Subject

No

ITEMS 5 & 6 PROPOSED AMENDMENTS TO THE CONSTITUTION OF TDC (Pages 1 - 54)

Members are advised that the report of the Head of Democratic Services and Monitoring Officer attached covers item 5 Councillor Call for Action and item 6 Revised Planning Protocols and Procedures.

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Constitution Review: Proposed Amendments to the Constitution of the Governance of Thanet District Council

To: **Constitution Review Working Party - 1 April 2010
Standards Committee - 13 April 2010**

By: **Harvey Patterson, Monitoring Officer**

Classification: **Unrestricted**

Summary: To consider various drafting amendments to the Council's Constitution in relation to Planning Matters, Councillor Calls for Action and the Terms of Reference of the Standards Committee, Standards (Referrals and Review) Sub Committee, Standards (Hearings) Sub Committee and the Governance & Audit Committee.

For Decision

1.0 Introduction

1.1 The last meeting of the Constitution Review Working party considered a number of reports where it approved the principle of reviewing the Constitution in a number of key areas including a review of the Protocol for the Guidance of Planning Committee Members and Officers in the light of the publication of revised guidance from central government titled 'Probity in Planning' and the introduction of the Councillor Call for Action (CCfA). In addition, the Monitoring Officer has conducted a review of the Terms of Reference of the Standards Committee and its two Sub Committees and the Section 151 Officer in conjunction with the Governance & Audit Committee has completed the annual review of the Terms of Reference of the Governance & Audit Committee.

2.0 Details

Planning Protocol

2.1 A revised Planning Protocol is attached **as Annexe 1**. Given the numerous amendments proposed to the Protocol, the existing Protocol for the Guidance of the Planning Committee Members and Officers is also included at Annexe 1 for comparison purposes. The key changes proposed are:

- An improved explanation of the requirements of the Members Code of Conduct;
- The power for the Planning Committee to determine all Planning Applications including departure applications - without prejudice to the right of the Planning Committee to refer any application to full Council for determination;
- The power for the Director of Regeneration Services to determine planning applications from officers not involved in the Planning process (other than the Chief Executive and Directors);
- The re-introduction of public speaking at site visits - but under carefully controlled conditions;

- An explanation of public speaking rights at Planning Committee, including the limited speaking rights of a member who has declared a prejudicial interest;
- A revised procedure for dealing with decision making by the Planning Committee when it is minded to make a decision contrary to the advice of the Planning Officer to ensure that proper reasons are given and to reduce the risk of an award of costs on appeal.

2.2 The proposed changes to the Planning Protocol also required officers to revisit the statutory functions of the Planning Committee as set out in the Constitution as well as the Scheme of Delegations to Officers (in so far as planning matters were concerned). In relation to the statutory functions of the Planning Committee, it was found that these were not completely up to date so revised statutory functions for the Committee are set out in Part A of **Annexe 2** attached. Suggested consequential amendments to the Scheme of Delegations to Officers in relation to planning matters are set out in Part B of **Annexe 2**.

Councillor Call for Action (CCfA)

2.3 As previously reported to the Working Party, the Council is required to introduce the right for all councillors to have a 'local government matter' included on the agenda of the Overview and Scrutiny Panel. This is to enable ward councillors to raise the profile of issues in their ward or service failures that have not been resolved through the normal channels. Accordingly, Rule 8 of the **Overview and Scrutiny Procedure Rules** has been amended to record this right and this is set out at **Annexe 3**. However, it is intended as a remedy of last resort and there also are certain 'excluded matters' that by law may not be raised by a CCfA. Consequently, the draft Protocol attached at **Annexe 4** provides advice and guidance to members on accessing the process as well as describing its limitations. It also includes a form for members to use and a flow chart depicting the intended process from inception to final conclusion.

Standards Committee Terms of Reference

2.4 The Terms of Reference of the Standards Committee as described in the Constitution are out of date and do not fully reflect the functions delegated to the Committee in respect of the local assessment and determination framework by the Standards Committee (England) Regulations 2008. Accordingly revised Terms of Reference for the Standard Committee and its two Sub Committees are attached for approval at **Annexe 5**.

Governance & Audit Committee Terms of Reference

2.5 These are the subject of a separate report

3.0 Corporate Implications

3.1 Financial

3.1.1 None apparent

3.2 Legal

3.2.1 As set out in the report

3.3 Corporate

3.3.1 The Constitution is the Council's principal governance document and is required to be kept under regular review

3.4 Equity and Equalities

3.4.1 None Specific

4.0 Recommendation(s)

4.1 That the amendments to the Council's Constitution set out in the Annexe's 1 to 4 inclusive of the Officer report be considered.

4.2 That the Standards Committee recommends the protocol in Annex 1 to Council, with or without amendments.

5.0 Decision Making Process

5.1.1 The recommendations of the Constitution Review Committee are considered by the Standards Committee who will make final recommendations to Council. Council will determine the date by which any constitutional reform is to take effect.

Contact Officer: *Harvey Patterson, Head of Legal & Democratic Services*

Reporting to: *Richard Samuel, Chief Executive*

Annexe List

<i>Annexe 1</i>	<i>Draft Planning Protocol and current Planning Protocol</i>
<i>Annexe 2</i>	<i>Revised functions of Planning Committee and proposed amendments to the Scheme of Delegations to Officers</i>
<i>Annexe 3</i>	<i>Amended Rule 8 Overview & Scrutiny Procedure Rules</i>
<i>Annexe 4</i>	<i>Draft Protocol on Councillor Calls for Action</i>
<i>Annexe 5</i>	<i>Revised Terms of Reference for the Standards Committee etc.</i>

Background Papers

None

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PART A - Draft/Protocol for the Guidance of Planning Committee Members and Officers

1. Introduction

- 1.1 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the local planning authority, both planning officers and the planning committee, make, planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way
- 1.2 Moreover, planning decision making is not an exact science but a process of informed judgement taken within a firm policy context. Decisions can be highly controversial due to their capacity to affect amenity and well-being as well as land and property interests, more so because the system actively invites public opinion as part of the decision making process. It is important, therefore, that the planning processes at the Council are characterised by open and transparent decision-making.
- 1.3 Consequently this Protocol is intended as guidance and a statement of good practice for all councillors and officers involved in the administration or operation of the planning process (including planning enforcement). It is not restricted to professional town planners and planning committee members

2. The Roles and Conduct of Members and Officers involved in the Planning Process

- 2.1 **Members and officers have different but complementary roles.** Both serve the public but members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise members and the Council and carry out the Council's work. They are employed by the Council, not by individual members. It follows that instructions may only be given to officers through a decision of the Council or one of its duly constituted Committees or Sub-Committees or by the Cabinet as a whole or one of its duly constituted Committees or by an individual Cabinet Members in exercise of individual executive decision making powers. Any other system which develops is open to question.
- 2.2 Both members and officers are guided by codes of conduct. Of particular relevance to members involved in the planning process are

Paragraph 2(c) and 6(a) of the Members Code of Conduct which provides that a member:

'must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority'; and

“must not in his or her official capacity, or any other circumstance, use or attempt to use his or her position as a member improperly to confer on or secure for himself or herself or any other person, an advantage or disadvantage.”

- 2.3 If a member fails to comply with any of the requirements of the Members Code of Conduct this may be regarded by the local ombudsman as maladministration and may be the subject of a complaint to the Standards Committee. This could result in disciplinary action against the member by the Standards Committee or the First Tier Tribunal, the latter having the power to disqualify a member from holding office for up to five years.
- 2.4 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Consequently, members of the planning committee serve the public interest and although they will be subject to intense lobbying on occasion and should take account of the views expressed, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should decline to be appointed to the planning committee.
- 2.5 If an Officer breaches the Officer Code of Conduct, they may be subject to disciplinary action in accordance with the Councils Disciplinary Procedure. Moreover, an officer who is also a Chartered Town Planners will be subject to the Royal Town Planning Institute's Code of Professional Conduct, a breach of which may result in disciplinary action by the Institute.
- 2.6 A successful relationship between members and officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised. Further guidance on this is set out in the adopted Protocol on Member/Officer Relations.

3. Registration and Declaration of Interests

- 3.1 The Members Code imposes requirements on members in relation to the registration and declaration of interests as well as specifying the effect that specific declarations will have on a Members participation in the decision making process.

- 3.2 Guidance on personal and prejudicial interests reference may be obtained from the Monitoring Officer and reference should be made to the guidance published by the Standards Board titled '*Code of Conduct guidance 2007*' which may be downloaded from the Standards Board web-site. However, the ultimate responsibility for complying with the obligations to declare interests imposed by the Members Code and to act accordingly, rests with each member.
- 3.3 In addition, a Register of Members' Interests is maintained by the Monitoring Officer and is available for public inspection. The Members Code requires all members to provide the Monitoring Officer with written details of relevant interests within 28 days of the date of acceptance of office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes.
- 3.4 The Members Code also provides that a member will have at least a personal interest to declare at the Planning Committee if a planning application relates to or is likely to affect an interest contained in the Register of Members Interests. They will also have at least a personal interest in any planning application that would affect the well-being or financial position of the member or a 'relevant person' to a greater extent than the majority of the inhabitants of the ward affected by the application.
- 3.5 A relevant person is very widely defined to include the members spouse/partner family members, relatives and close associates or his or their, employers, business partners or fellow directors (if they are a remunerated company director) as well as any outside body to which member has been nominated or appointed by the Council and other bodies which exercise public functions or are charitable in nature or who seek to influence public policy such as a political party or trade union, of which they member is a member or in a position of general control and management.
- 3.6 A member who has a personal interest in a planning application must also consider whether that interest also constitutes a prejudicial interest. The test of this is whether it would be reasonable for a member of the public with knowledge of all the relevant facts to consider that the nature of the member's interest was likely to affect their judgement of the public interest - i.e. affect or influence their voting intentions.
- 3.7 If a member only has a personal interest to declare they must declare both the existence and nature of that interest at the commencement of the consideration of the application or when they become aware of it (if later). Thereon they are entitled to remain in the meeting and speak (if a ward member) and speak and vote (if a member of the Planning Committee).

- 3.8 If a member decides that their personal interest is also prejudicial interest they must declare that fact in the usual way. They then have two choices: They must either leave the meeting for the duration of the consideration of the application, or, exercise public speaking rights (see above) and then leave the meeting for the remainder of the consideration of the item.
- 3.9 Members who have substantial property interest or other interests which will result in the frequent declaration of prejudicial interests should avoid serving on the Planning Committee.

4 Hospitality and Gifts

- 4.1 Any offer of hospitality or offer of gifts to either Councillors or Officers should in the first instance be declined politely. If receipt of hospitality or acceptance of a gift with a value of £25 or more is unavoidable, declaration of its receipt should be made to the Monitoring Officer within 28 days who will enter it in the Register of Members Interests. Registration gives rise to a personal interest which has to be declared if less than two years old.

5. Training

- 5.1 Council appoints members to the Planning Committee at the Annual Meeting and is legally required to give preference to the nominations of the political party groups in order to achieve political balance. This will take priority over any other requirement that the Council may wish to impose on the appointment of members to the Planning Committee, such as a requirement that a member will first receive training. However, it is expected that all members of the Planning Committee (including substitute members) will participate in initial and regular update training and members who are not willing to do so should decline to be appointed to the Planning Committee.

6. Lobbying

- 6.1 Concerns on poor practices within local authorities have often been based on the issue of lobbying. Lobbying can lead to the impartiality and integrity of a councillor being called into question, unless care and common sense is exercised by all the parties involved. When being lobbied, councillors (members of the planning committee in particular) should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they should restrict themselves to giving procedural advice, including suggesting to those who are lobbying, that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the committee. If they do express an opinion, they should make it clear that they will only be in a

position to take a final decision after having heard all the relevant evidence and arguments at committee.

- 6.2 Problems should not arise if Councillors simply listen to a point of view about a planning proposal and provide procedural advice (in particular referring the person to Officers if he or she is a member of the public and not professionally represented). Those members of the public who have sought professional representation should be encouraged to make any points concerning their application through their professional advisor.
- 6.3 Planning Councillors could find themselves in a difficult situation at a later date if they indicate or give the impression of support or opposition to a proposal or declare their voting intention before a decision is to be taken as this could be taken to be pre-determination of the outcome. It is important that all decisions should be made after all relevant information and views have been taken into consideration.
- 6.4 Planning Councillors should not organise support or opposition, lobby other Councillors or act as an advocate or put pressure on Officers for a particular recommendation (although a Councillor may address a Planning Committee under Council Procedure Rule 24.1).
- 6.5 Planning Committee Members who find themselves in a situation which is developing into lobby should actively take steps to prevent this happening or at least explain that whilst they can listen to what is being said they are constrained from expressing their point of view or an intention to vote one way or another, otherwise they may well have to declare an interest and not take part in the subsequent Committee decision. In a case where this has actually happened the Member should declare accordingly.
- 6.6 Councillors who are unsure whether an interest should be declared or not should seek legal advice (which may be obtained from the Council's Monitoring Officer), although the ultimate decision rests with the individual councillor and nobody can make the decision on their behalf.

7. Members' Applications

- 7.1 Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Council they should take no part in its processing.
- 7.2 Members are requested to notify the Planning Applications and Enforcement Manager of their intention to make a planning application and are required to declare on the face of the Application form that they are a member of the Council..

- 7.3 A planning application by a Member will be determined by the Planning Committee, not by an officer.

8. Officers' Applications

- 8.1 As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the Register of Officer's interests maintained by the Monitoring Officer.
- 8.2 Applications submitted by a member of the Corporate Management Team or any officer directly or indirectly involved in the determination of planning applications shall be determined by the Planning Committee. Applications by other officers may be determined under delegated powers in accordance with the approved Scheme of Delegations to Officers.

9. Membership and Planning Committee and Substitutions

- 9.1 The Planning Committee consist of 15 members reflecting the representation that the party groups have on full Council. A system of substitution also applies to the Planning Committee, meaning that a committee member who is unable to attend a meeting can appoint another member to attend the meeting in his or her place. Substitutions at a Planning Committee shall only be permitted from a designated pool of substitute Members to be agreed at the Annual Meeting of Council each year (and updated as required at subsequent meetings of Council).
- 9.2 It shall be the responsibility of the Member unable to attend the Planning Committee meeting to appoint a substitute Member from the pool and inform the Democratic Services & Scrutiny Manager, in accordance with the Council's Constitution.

10. Call-In Procedure

- 10.1 Subject to the exceptions described in Paragraphs 7 and 8 above (member and officer applications) and Paragraph 13 below (departures from the Development Plan) all planning applications may be determined by the Director of Regeneration Services under delegated powers unless 'called in' by a Member for determination by the Planning Committee.
- 10.2 Any request by a Member for an application to be determined by the Planning Committee shall be made in writing to the planning Case Officer and Planning Applications and Enforcement Manager. That Member will be required to justify the need for the item to be determined by the Planning Committee on planning grounds.

- 10.3 Members will be notified of all planning applications for planning permission, listed building consent, conservation area consent, consent to display advertisements, applications under regulation 3 and 4 of the Town and County Planning (General Regulations) in respect of development by Thanet District Council, and applications for prior approval under Part 24 of the Town and Country Planning (General Permitted) Development 1995 (as amended).
- 10.4 Notification will be in the form of individual letters and by means of the weekly list of planning applications circulated to all Members. Any request for an application must be made within 3 weeks of the date of the weekly list. However, should subsequently the applicant amend the application prior to decision the Members within whose ward the application site lies will be further notified by letter or e-mail and given a further specified period of not less than 7 days for requesting that the application be determined by the Planning Committee.
- 10.5 In exceptional cases the Chairman of the Planning Committee can agree to an application being determined by the Planning Committee at the request of a Ward Member beyond the above specified periods provided that the application has not already been determined by the Director of Regeneration Services.

11. Decision Making at Planning Committee

- 11.1 The Committee will receive a written report from the Planning Officer on each planning application it considers. The application report will include a recommendation from the Planning Officer.
- 11.2 The Officer will briefly describe the proposal and table any consultation responses and representations received after the agenda and reports for the meeting had been published. Thereon public speaking will take place as set out at Paragraph 12 below. The Chairman will then ask the Officer to present the report

Moving the Motion

- 11.3 The Chairman will normally move the officer recommendation from the chair and seek a seconder purely in order to facilitate a debate on the application under consideration. As such, this will not constitute predetermination on the part of the Chairman and seconder.

Amendments

- 11.4 Where the motion under debate is to grant planning permission a member may propose an amendment to vary or delete a proposed condition or to add an additional condition. Where the motion under debate is to refuse planning permission a member may propose an amendment to vary or delete a ground of refusal or to add an additional ground of refusal. Any member proposing an amendment will be

required to give planning based reasons for the amendment which will be recorded in the minutes of the meeting. The Council's Constitution expressly prohibits 'negating' amendments, i.e. that propose the direct reverse of the motion under consideration, for example, where the motion under consideration is to grant planning permission and the purported amendment is to refuse to grant planning permission.

Refusal of Planning Permission against Officer Advice

- 11.5 Where the Planning Committee is minded to refuse planning permission against officer advice the Planning Committee is required to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of members of the Planning Committee at the point of refusal. In addition, the Council is at risk of having costs awarded against it, if, subsequently on appeal, it is unable to justify each ground of refusal.
- 11.6 If it is evident to the Chairman in the course of a debate on an application that the Committee is minded to refuse planning permission contrary to the recommendation of the Planning Officer, he will withdraw the motion to grant planning permission and propose and seek a seconder for a motion that the Committee is 'minded to refuse' the application. If seconded the motion will be put to a vote without debate. If carried the Chairman will promote a discussion on the grounds of refusal and will also seek the advice of the Planning Officer advising the meeting. At the conclusion of the discussion the Chairman will then move and seek a seconder or seek a mover and seconder of a motion to refuse planning permission on the ground specified in the motion.

Grant of Planning Permission against Officer Advice

- 11.7 Where the Planning Committee is minded to grant planning permission against officer advice the Planning Committee is required to give adequate and intelligible reasons for granting planning permission as well as considering what conditions should be imposed and the reasons for those conditions. In addition, where the grant of permission would constitute a departure from a policy or policies in the Development Plan, Members will need to identify clear and substantial material considerations that justify departing from the Development Plan.
- 11.8 If it is evident to the Chairman in the course of a debate on an application that the Committee is minded to grant planning permission contrary to the recommendation of the Planning Officer, he will withdraw the motion to refuse planning permission and propose and seek a seconder for a motion that the Committee is 'minded to grant' planning permission for the application. If seconded, the motion will be put to a vote without debate. If carried, the Chairman will promote a

discussion on the reasons for granting planning permission and will also seek the advice of the Planning Officer advising the meeting. At the conclusion of the discussion the Chairman will then move and seek a seconder or seek a mover and seconder of a motion to grant planning permission on the ground specified in the motion and delegate the power to the Director of Regeneration Services to issue a planning decision notice with conditions attached that reflect the intentions of the Planning Committee.

Voting

- 11.9 At the conclusion of the consideration of an application the Chairman will call for a vote. Voting on any motion will normally be signified by a show of hands but if there is no dissent may be signified by the affirmation of the Committee. In the event of an equality of votes the Chairman may exercise a casting or second vote and no record shall be made at the time of voting of the votes of individual Members unless, before a vote has been taken a majority of the members present have demanded a recorded vote in accordance with Council Procedure Rule 21.4. After a vote has been taken by affirmation or a show of hands a Member may also request that his or her vote is recorded in the minutes of the meeting.

Deferral

- 11.10 Where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, the application may be deferred so that further information is included in the report of the Planning Officer.

12. Site Visits

- 12.1 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material (including photographs taken by Officers) Site visits may cause delay and additional costs and should only be used where the expected benefit is substantial .
- 12.2 A site visit is a fact finding exercise and should consist simply of an inspection by viewing Members with Officer assistance in the presence of the applicant and any objectors, or even an unaccompanied visit (ie without applicant and objectors), as the main purpose of a site visit is to see the subject matter of the application.
- 12.3 Each site visit will be chaired by the Chairman of the Planning Committee or in his or her absence by the Vice Chairman. If the Chairman and Vice Chairman are absent, the members present will elect a Chairman from among their number.

- 12.4 It will be the responsibility of the Site Visit Chairman (i) to conduct the site visit in accordance with this protocol, (ii) determine whether to permit public speaking, and (iii) decide whether to accede to a request to observe the site from a particular vantage point.

Protocol Compliance

- 12.5 A statement will be read out before the commencement of a site visit, making it clear what the purpose of the visit is, and the limitations that exist on the business that can be transacted during that visit. The Site Visit Chairman will ask the Planning Officer to explain the proposal and outline the main issues

Public Speaking

- 12.6 No public speaking will be permitted at site visits unless the applicant or his professional representative is present **and** the Site Visit Chairman gives his consent. In such circumstances public speaking will take place in a publicly accessible location unless the applicant has given permission for the Committee and objectors to enter the site. Public speaking will be limited to not more than three minutes per contributor and contributions will be taken in the following order:-

- From the applicant or his or her representative;
- From one person raising points of concern;
- From one representative of the Town or Parish Council (if applicable); and
- From any ward councillor who is present.

Requests to View Site

- 12.7 The Site Visit Chairman may at his or her discretion also accede to a request made during public speaking for the Committee to view the site from a particular vantage point. In exercising this discretion the Chairman will take into account the willingness of the applicant or an objector (as the case may be) to permit all the interested parties to view the site from that vantage point.
- 12.8 In the interests of fact finding members of the Committee may ask questions of any interested party (including the Kent Highway Services Officer) at any time provided such questions are directed through the Site Visit Chairman. Members should not engage individually in discussion with applicants or objectors or their professional representatives as this could be construed as lobbying

13. Development Plan Departures

- 13.1 All applications not in accordance with the development plan must be identified as soon as possible.
- 13.2 If approval is recommended, all material considerations must be clearly identified and how members justify overriding the development plan clearly demonstrated.
- 13.3 If the Officer's report recommends approval of a departure the justification for such a departure must be included in full in the report.
- 13.4 The Planning Committee may approve such a departure although the application may then have to be referred to the Secretary of State for Communities and Local Government depending on the type and scale of development proposed.
- 13.5 Addenda and conditions may be attached to an application at the request of Members but as in 12.4 any such conditions must be fully minuted with the mover and seconder recorded.

14. Changes to an Application (Amends needed)

- 14.1 No material change to any planning application shall be considered at Committee unless it has been subject to adequate public consultation

15. Briefing Meetings

- 15.1 If a briefing meeting is held prior to any meeting of the Planning Committee it shall normally be attended only by the Chairman, Vice Chairman and Officers and shall be for the purpose of Officers informing the Chairman and Vice Chairman of any additional matters since publication of the agenda that do not appear in the reports.
- 15.2 The briefing meeting would enable notification of concerns or amendments to any application and enable the Chairman and Vice-Chairman to consider if such amendments constitute a material change, or whether a verbal report from the Officer or Officers is acceptable and within the Standing Orders governing the conduct and management of a meeting.

PART B - Current Planning Protocol

Protocol for the Guidance of Planning Committee Members and Officers

1.0 General Role and Conduct of Councillors and Officers

- 1.1 Councillors are accountable to the electorate while Officers are accountable to the Council as a whole. Officers advise Councillors and Council also carry out the Council's work.
- 1.2 Both Councillors and Officers are governed by Codes of Conduct. The Authority's Code of Conduct for Members (the Authority's Code) provides guidance and standards for Councillors. Breaches of the Authority's Code may be regarded by the local Ombudsman as maladministration and may result in a complaint being made to the Standards Board for England or to the Council's Standards Committee.
- 1.3 Officers who are members of professional bodies are subject to rules of conduct, breaches of which may result in disciplinary actions.
- 1.4 In addition to the above codes, Councillors and Officers must carry out their duties in accordance with the Council's Standing Orders and Rules which set down the actual rules which govern the conduct of Council business and of course there is the legislation contained in the Local Government Acts themselves.
- 1.5 Some Councillors may in addition to the above find that there are still more codes of conduct which affect them individually such as the advice notes issued by the Co-operative Union Ltd in respect of Co-operative Councillors Pecuniary and Non-pecuniary Interests.
- 1.6 It is important for Councillors to understand who they represent and whose views they should consider. Whilst Councillors have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Councillors must therefore represent their constituents as a body and vote in the interests of the whole district.
- 1.7 Councillors should not favour any individuals or groups and although they may be influenced by the opinions of others they alone have the responsibility to decide what view to take and the manner in which they cast their votes.

2.0 Training

- 2.1 There is a strong expectation that members of the Planning Committee (including Substitute members) will undertake training every two years updated by internal training.

Lobbying

Problems should not arise if Councillors simply listen to a point of view about a planning proposal and provide procedural advice (in particular referring the person to Officers if he or she is a member of the public and not professionally represented). Those members of the public who have sought professional representation should be encouraged to make any points concerning their application through their professional advisor.

Planning Councillors could find themselves in a difficult situation at a later date if they indicate or give the impression of support or opposition to a proposal or declare their voting intention before a decision is to be taken as this could be taken to be pre-determination of the outcome. It is important that all decisions should be made after all relevant information and views have been taken into consideration.

Planning Councillors should not organise support or opposition, lobby other Councillors or act as an advocate or put pressure on Officers for a particular recommendation (although a Councillor may address a Planning Committee under Council Procedure Rule 24.1).

Planning Committee Members who find themselves in a situation which is developing into lobby should actively take steps to prevent this happening or at least explain that whilst they can listen to what is being said they are constrained from expressing their point of view or an intention to vote one way or another, otherwise they may well have to declare an interest and not take part in the subsequent Committee decision. In a case where this has actually happened the Member should declare accordingly.

Councillors who are unsure whether an interest should be declared or not should seek legal advice (which may be obtained from the Council's Monitoring Officer), although the ultimate decision rests with the individual councillor and nobody can make the decision on their behalf.

4.0 Site Visits

- 4.1.1 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material (including photographs taken by Officers) and is primarily to allow Members to see the site for themselves.
- 4.2 Site visits may cause delay and additional costs and should only be used where strictly necessary.
- 4.3 Planning Committee Members should endeavour to keep together as a group and not engage individually in discussion with applicants or objectors or their professional representatives. Any discussion by Members should be confined to any explanation of things seen on site. Any other discussion should take place within the Committee meeting at which the application is being considered.
- 4.4 A site visit should consist simply of an inspection by viewing Members with Officer assistance in the presence of the applicant and any objectors, or even an unaccompanied visit (ie without applicant and objectors), as the main purpose of a site visit is to see the subject matter of the application.
- 4.5 Any discussion at a site visit other than pure explanation of things seen may be construed as lobbying (see above).
- 4.6 No public speaking will be permitted at site visits but a Ward Member (or another designated Member) and a representative of Parish/Town Councils may be permitted to share information.
- 4.7 A statement will be read out before the commencement of a site visit, making it clear what the purpose of the visit is, and the limitations that exist on the business that can be transacted during that visit.

5.0 Hospitality and Gifts

- 5.1 The basis of the planning system is the consideration of private proposals against wider public interests and opposing views are often strongly held by those involved. Whilst Councillors should take account of those views they should not favour any person, Company, group or locality, nor put themselves in a position where they appear to do so.
- 5.2 Any offer of hospitality or offer of gifts to either Councillors or Officers should in the first instance be declined politely. If receipt of hospitality of a gift is unavoidable declaration of its receipt should be made as soon as possible.
- 5.3 Any gifts and/or hospitality should be logged and entered in the registers kept by the Council's Democratic Services Unit and reviews regularly.

6.0 Declarations of Interest

- 6.1 The law and the Authority's Codes set out requirements and guidance for declaration of personal and prejudicial interests (see 1.0 above – General Role and Conduct of Councillors and Officers). Councillors must note that not only should impropriety be avoided but also any appearance of grounds for suspicion of improper conduct. The responsibility for this rests individually with each Councillor. (The Standards Board for England provides helpful advice).
- 6.2 Councillors who have substantial property interest or other interests which will prevent them voting on a regular basis should avoid serving on the Planning Committee.
- 6.3 Councillors should not use their position to further a private or personal interest rather than the general public interest or give grounds for such suspicion.
- 6.4 The law and the guidelines set out in the Authority's Code provide that an interest should be declared when a member of the public knowing all the facts would reasonably think that the Councillor might be influenced by it. If a prejudicial interest is declared not only must the interest be disclosed but the Councillor should not take part in any vote on the matter. At Planning Committee meetings where members of the public are able to express an opinion on an application, a Member with a prejudicial interest can provide information to the Committee. However, that Member should leave the meeting after such information has been provided, and may not take any further part in the process of the application. It is for the individual Councillor to declare an interest and as a general guideline, if in doubt it is safer to declare an interest.

7.0 Members' Applications

- 7.1 Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Authority they serve they should take no part in its processing.
- 7.2 Such a proposal should be readily identified and a Senior Officer should be informed of any such proposal.
- 7.3 Such proposals should be reported to the Planning Committee as main items and not dealt with by Officers under delegated powers.

8.0 Officers' Applications

- 8.1 As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the register of officer's interests.
- 8.2 Applications by officers are always considered by the Planning Committee, which will be informed of the fact that the application is made by or on behalf of an officer.

9.0 Committee Membership

- 9.1 Care should be taken to ensure (so far as is practicable) that membership of the Planning Committee avoids a “concentration” of Members to a particular area of the island.
- 9.2 Where a Councillor is not a Member of the Planning Committee and makes representations on an application under Council Procedure Rule 24.1 he or she must disclose whether there has been contact with the applicant or the applicant’s agent or any objectors, making it clear if only one side of the argument has been heard.
- 9.3 Councillors must confine their contribution to the debate on planning applications to purely planning matters and not aspects affecting the application which fall under the area of responsibility of any other Committee or Board or the Cabinet.

10.0 Substitutions

- 10.1 Substitutions at a Planning Committee shall only be permitted from a designated pool of substitute Members, to be agreed at the Annual Meeting of Council each year (and updated as required at subsequent meetings of Council). [NOTE: Annual council will be asked to determine the size/composition of such a pool.]
- 10.2 It shall be the responsibility of the Member unable to attend the Planning Committee meeting to appoint a substitute Member from the pool and inform the Democratic Services Manager, in accordance with the Council’s constitution.

11.0 Guidelines of Public Speaking

- 11.1 Public speaking is permitted at Planning Committee with (for minor applications) one speaker for the application and one speaker raising points of concern,
- 11.2 In the case of major planning applications (as defined by the Town and Country Planning (General Development Procedure) Order 1995, a maximum number of three members of the public will be permitted to speak against the application, provided they have different points to make to the Committee. It shall only be necessary for one speaker to represent the applicant.
- 11.3 The applicant will speak first and the objector(s) will speak afterwards.

12.0 Recording of Decisions Against Officer Recommendations

- 12.1 The Committee will receive a report from the Planning Officer on each planning application it considers. The application report will include a recommendation from Officer.
- 12.2 The Officer will briefly introduce the report. After which there will be public speaking. The Chairman will then ask the Officer to comment. *{Amended by Standards Committee on 22 April 2008.}*
- 12.3 If it is evident from debate that the Committee is minded not to agree the Officer recommendation the Chairman will invite members to either; move an alternative recommendation or, an amendment. In moving that amendment the mover and/or seconder must provide supporting reasons.

- 12.4 The Chairman will ask the Head of Development Services, or the Senior Planning professional in his absence, to comment on the supporting reasons. Then either:-
- a vote will be taken to agree the alternative recommendation/amendment;
- or
- if satisfactory reasons have not been given for the alternative recommendation/amendment the Committee will return to the Officer recommendation which will be agreed or another motion debated.
 - if, following further debate, the Committee still wishes to take a decision against officer advice, even though the Head of Development Services (or in his absence a Senior Planning Professional) cannot agree that the reasons for that decision are justified, then it shall be entitled to do so, provided that the decision directly against officer advice is so minuted. (Added by Standards Committee on 22 April 2009.)
- 12.5 In exceptional cases; where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, the application will be deferred so that further information is included.

13.0 Development Plan Departures

- 13.1 All applications not in accordance with the development plan must be identified as soon as possible.
- 13.2 If approval is recommended, all material considerations must be clearly identified and how members justify overriding the development plan clearly demonstrated.
- 13.3 If the Officer's report recommends approval of a departure the justification for such a departure must be included in full in the report.
- 13.4 Any decision of the Planning Committee to approve such a departure must be referred to full Council. The application may then have to be referred to the Secretary of State for the Environment depending on the type and scale of development proposed.
- 13.5 Addenda and conditions may be attached to an application at the request of Members but as in 12.4 any such conditions must be fully minuted with the mover and seconder recorded.

14.0 Changes to an Application

- 14.1 No material change (i.e. one likely to affect any consultee) to any planning application shall be considered at Committee unless it has been the subject of a written appraisal by Officers, and has had adequate public consultation, and has been published in the agenda for the relevant meeting.
- 14.2 No minor change to any planning application shall be considered at Committee unless it has been published in the agenda for the relevant meeting.

15.0 Briefing Meetings

- 15.1 If a briefing meeting is held prior to any meeting of the Planning Committee it shall normally be attended only by the Chairman, Vice Chairman and Officers and shall be for the purpose of Officers informing the Chairman and Vice Chairman of any additional matters since publication of the agenda that do not appear in the reports.

- 15.2 The briefing meeting would enable notification of concerns or amendments to any application and enable the Chairman and Vice-Chairman to consider if such amendments constitute a material change, or whether a verbal report from the Officer or Officers is acceptable and within the Standing Orders governing the conduct and management of a meeting.

16.0 Conduct of Planning Committee and Planning Committee Members

- 16.1 All Members of the Planning Committee are to avoid personal abuse of Members or Officers or mention of party political matters during meetings of the Committee. The Chairman of the meeting shall warn any Member breaching this rule and in the case of repetition require him or her to leave the meeting. Such behaviour shall be considered to be a breach of the Council's Code of Conduct.
- 16.2 Any objection to an elected members' actions or behaviour shall be made in writing to the Chief Executive or to the Council's Monitoring Officer.
- 16.3 Any criticism of Officers by Members of the Planning Committee in relation to the handling of any planning application shall, in the first instance, be addressed informally to the Head of Development Services or the relevant Corporate Director. If this does not resolve the matter then it should be made in writing in accordance with procedures laid down in Standing Orders.
- 16.4 If any Officers feels or suspects that pressure is being exerted upon him/her by any elected Member in relation to a particular application he or she shall forthwith notify the matter in writing to the Chief Executive, relevant Director of Service or the Council's Monitoring Officer.

17.0 Recorded Votes

- 17.1 No record shall be made at the time of voting of the votes of individual Members on any item whether they be for or against the proposal or the abstaining from voting of a particular Member except that in accordance with 12.4 and 13.5.
- 17.2 A Member shall be entitled to have his or her vote recorded following the voting on any particular item in accordance with prescribed Standing Orders 11 (1) and (2).

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Agenda Item 5 Annex 2

PART A - Updated Terms of Reference of the Planning Committee

PART 3 SECTION 2 - COUNCIL FUNCTIONS THAT MAY BE REFERRED OR DELEGATED	
Function	Enactment
A - Functions relating to Town and Country Planning and Development Control	
1. Power to determine applications for Planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.
4. Power to decline to determine applications for planning permission.	Section 70A of the Town and Country Planning Act 1990.
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492).
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into agreements regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.

14. Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice.	Sections 171C, 187A, 183(1) and 171E of the Town and Country Planning Act 1990.
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990.
18. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
19. Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
20. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act.
21. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) regulations 1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.
22. Power to serve a building preservation notice and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
23. Power to issue enforcement notices in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
24. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
25. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
26. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
27. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892).
28. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).

29. Powers to issue a remedial notice in relation to a hedge adversely affecting the reasonable enjoyment of domestic property	Section 69 of the Anti Social Behaviour Act 2003
30. Power to enter neighbouring land	Section 74 of the Anti Social Behaviour Act 2003
31. Power to carry out works in default of compliance with a remedial notice.	Section 77 of the Anti Social Behaviour Act 2003
32. Power to enter land.	Section 324 of the Town and Country Planning Act 1990.
33. Power to obtain information as to interests in land	Section 330 of the Town and Country Planning Act 1990.
Miscellaneous functions	
1 Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.
2 Power to make a rail crossing extinguishment Order	Section 118A of the Highways Act 1980
3 Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990.
4 Power to make a rail crossing diversion Order	Section 119A of the Highways Act 1980
5 Power to require applicant for Order to enter into an agreement,	Section 119C(3) Highways Act 1980
6 Power to extinguish public right of way over land acquired for clearance	Section 294 Housing Act 1981
7 Power to authorise stopping up or diversion of footpath or bridleway	Section 257 of the Town & Country Planning Act 1990
8 Power to extinguish public rights of way over land held for planning purposes	Section 258 of the Town & Country Planning Act 1990

Note: The functions of the Planning Committee include the following:

P1 Power to refer an application for planning permission to Council if it has or is likely to have a substantial and district-wide impact; or would prejudice the implementation of the development plan .

P2 To advise the Council in respect of any proposed development by the Cabinet or a Cabinet Member holding the portfolio of that service, for which the Planning Committee is not prepared to pass the necessary resolution to carry out or authorise such proposed development

Delegated Powers:

P3 To consider annually the Scale of Fees and Charges, and to submit recommendations to the Cabinet or Council as appropriate.

P4 To authorise legal proceedings arising out of the Committee's functions.

P5 To deal with planning proposals referred to the Committee under agency agreements (if any), development proposed by Government departments, or by other Local Authorities

P7 To deal with the scheme of consultation for planning applications with Town and Parish Councils.

P8 To make arrangements for publicity to be given to planning applications.

P9 To deal with all other non-executive matters not specifically referred to in the Terms of Reference and Delegated Powers, arising from Town and Country Planning legislation, Listed Building legislation and Building Control legislation, and to approve guidelines on procedures for the benefit of applicants

PART B - PROPOSED AMENDMENTS TO SCHEME OF DELEGATION TO OFFICERS RELATING TO PLANNING MATTERS

(For ease of reference proposed amendments are highlighted in bold and underlined)

Scheme of Delegations - Director of Regeneration Services

Development Control

9.7 To determine (including the power to refuse applications), all applications for planning permission, Listed Building consent, Conservation Area consent, consent to display adverts, including applications under Regulation 3 and 4 of the Town and Country Planning (General Regulations) in respect of development by, or on behalf of, Kent County Council, in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, other than:

(i) applications which the Director of Regeneration or Planning Applications and Enforcement Manager in consultation with the Chairman or Vice Chairman of the Planning Committee considers to be of significant public interest;

(ii) applications which Council Members have specifically requested to be referred to the Planning Committee in accordance with the requirements of any Member's Call In Procedure from time to time approved by the Council ;

(iii) **applications submitted by a Members of the Council, members of the Corporate Management Team or any member of staff directly or indirectly involved in the determination of planning applications.**

(iv) applications under Regulation 3 and 4 of the Town and Country Planning (General Regulations) in respect of development by, or on behalf of Thanet District Council ,

9.8 To determine applications to make non-material amendments to a grant of planning permission including the power to amend the planning application and impose additional conditions

9.9 To add, or amend conditions and reasons for refusal on all applications which are considered at Planning Committee, as are necessary to ensure that when a planning permission or refusal is issued, it clearly expresses the intentions of the Members of the Committee in making that decision, and protects the interests of the Council as Local Planning Authority, the reason for the decision being accurately recorded in the Planning Committee minutes and on the Decision Notice.

(In all cases, where differences arise between the published minutes and the conditions or reasons for refusal issued by the Director of Regeneration, Planning Applications Manager, the latter shall prevail and be the binding and effective decision of the Local Planning Authority.)

9.10 To make observations on proposals submitted for comment and/or determine applications for prior approval in accordance with Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any other relevant Development Order, including:

Part 6 (Agricultural Buildings)

Part 24 (Telecommunications Code Systems Operators)

Part 31 (Demolition of Buildings)

Plus Member power of Call In - but subject to officer veto on time limits

9.To make observations in accordance with policies contained in a draft or adopted Development Plan for the area, or other approved documents in the form of planning guidance for development, on planning applications submitted to the County Planning Authority within the district for determination, and referred to the Council as Local Planning Authority for comment in accordance with Article 12 of the Town and Country Planning (General Development Procedure) Order 1995. In the case of major applications in consultation with the Chairman of the Planning Committee or in his or her absence, the Vice Chairman

9.12 To negotiate in consultation with the Head of Legal and Democratic Services, and within the context of Government Guidance and the Council's own policies, planning agreements under Section 106 of the Town and Country Planning Act 1990, and other legal agreements, where these are required in connection with the grant of planning permissions dealt with under delegated powers, and in other cases where such agreements are appropriate.

9.13 To provide scoping and screening opinions with regard to applications potentially requiring the submission of an Environmental Impact Assessment in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

9.14 To require further information in respect of applications for outline planning permission, under the Town and Country Planning (General Development Procedure) Order 1995, Article 3, (2).

9.15 To approve or refuse details submitted, in order to comply with Conditions attached to planning permissions

9.16 To determine applications for Hazardous Substance consent under the Planning (Hazardous Substances) Act 1990.

Planning and Listed Building Enforcement etc.

9.17 In consultation with the Head of Legal and Democratic Services to issue and serve planning, listed building conservation area and tree replacement enforcement notices, breach of condition notices, planning contravention notices and stop notices (including temporary stop notices) together with the power to vary, amend, withdraw and re-issue any such notice

9.18 To serve notices under Section 215 of the Town & Country Planning Act 1990 in relation to any land in the district the condition of which is prejudicial to the amenity of the district or any part of it including the power to vary, amend, withdraw and re-issue any such notice

9.19 In consultation with the Head of Legal and Democratic Services to take action to enforcement action in relation to any failure to comply with the requirements of a planning, listed building, conservation area or tree replacement enforcement notice, breach of condition notice, planning contravention notice, stop notice (including a temporary stop notice) or Section 215 notice including, where permissible and appropriate, the institution of prosecution proceedings, the taking of direct action, the registration of a local land charge, the recovery of expenses in any court of competent jurisdiction and the seeking of an injunction (in the latter case also in consultation with Chairman of the Planning Committee)

9.20 Jointly with the Head of Legal and Democratic Services and the Planning Applications Manager to determine applications for Certificates of Lawfulness of existing or proposed use or development under Sections 191 and 192 of the Town and Country Planning Act 1990.

9.21 In consultation with the Head of Legal and Democratic Services, to instigate legal proceedings against the display of fly posted advertisement material, in accordance with Section 224 of the Town and Country Planning Act 1990.

.....

Trees

9.35 To authorise, serve and confirm Tree Preservation Orders, and subsequently, on an annual basis to report to the Planning Committee for information **including the power to issue a direction pursuant to Article 7 of the Model Tree Preservation Order that a tree is of substantial amenity value.**

9.36 To determine applications for works to protected trees (TPOs and Conservation Areas), including felling, and to impose conditions on any Consents.

9.37 To maintain the Register of Applications for consent to carry out works to a tree protected by a Tree Preservation Order

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PROPOSED AMENDMENTS TO INTRODUCE COUNCILLOR CALL FOR ACTION (CCFA)

8.0 Agenda Items

- (a) Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Democratic Services **and Scrutiny** Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for the next available meeting of the Committee or Sub-Committee. **In addition, any member of the Council shall be entitled to give notice to the Democratic Services and Scrutiny Manager that he/she wishes a local government matter to be included on the agenda for the next available meeting of the Committee PROVIDED such notice complies with the requirements of any protocol from time to time adopted by the Council regulating the exercise of such right.** On receipt of any such a request not later than two weeks prior to the meeting in question identifying the subject matter and briefly stating the reasons why it is suggested it is an appropriate subject for scrutiny (**or in the case of a local government matter briefly stating the steps that have already been taken to try to resolve the matter in question and why such steps have been unsuccessful**) the Democratic Services **and Scrutiny** Manager will ensure that it is included on the next available agenda and copy the same as soon as practicable to the Chairman of the Committee for information.

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THANET DISTRICT COUNCIL

**Councillor Call
for Action
(CCfA)**

Draft/Protocol

April 2010

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Councillor Call for Action Protocol - CCfA

Introduction

Councillor Call for Action (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act) and came into force on 1 April 2009. The statutory requirement to implement CCfA applies to all Councils in England (with the exception of Parish / Town Councils) regardless of their executive arrangements.

The Act enables any Member of the Council to refer to an Overview & Scrutiny Committee / Sub-Committee any local government matter or any crime and disorder matter which affects their ward.

Limitations

It is important to recognise that CCfA is not guaranteed to solve a given problem. CCfA can provide a method for discussing such problems and, through discussion, trying to overcome them.

It is the responsibility of the Ward Councillor to provide evidence of the actions that have been taken so far to identify possible solutions to the issue(s).

Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- Individual complaints concerning personal grievances or commercial issues;
- Any matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
 - Planning and licensing applications and appeals
 - Council Tax / Housing Benefits complaints and queries
 - Issues currently under dispute in a court of law
- Any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee or any of its Sub-Committees.

A referral, provided it is not an excluded matter (see above); will ensure that the matter is included on the agenda of the Overview & Scrutiny Panel. It is then up to the Members of the Panel to decide whether or not to take the matter further.

A referral made to the Overview & Scrutiny Panel is seen as being at the end of the CCfA process (the last resort) and not the first step.

Steps to be taken, prior to making a Councillor Call for Action referral

Prior to a Councillor referring a matter as a CCfA to the Overview & Scrutiny Panel, a Councillor must have tried to resolve the issue / problem themselves using all mechanisms and resources available to them at Ward level. Councillors should:

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue;
- Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve the issue, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, communication with local Members of Parliament (MPs) and Councillors in other authorities etc;
- Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with officers and / or members, questions at committees etc;
- Ensure that this is not an issue that is currently being or should be pursued via the Council's Corporate Complaints Procedure ;
- Ascertain whether or not any other form of local scrutiny is investigating the issue, e.g. Kent County Council.

How to make a Councillor Call for Action referral

If the issue / problem is still not resolved the Councillor can refer it to the Overview & Scrutiny Panel as a Councillor Call for Action. To do this the Councillor should:

- Complete a CCfA Request Form by hand or electronically, outlining what the issue is and what steps have been taken to seek a resolution. The request for a CCfA should include:
 - The name of the Councillor and Ward they represent
 - Description of the topic
 - Why the topic is being raised
 - Who it affects
 - What solutions have already been tried
 - What outcomes or solutions required
 - Evidence to support the CCfA
 - Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?
 - Are there any deadlines associated with the CCfA of which the Overview & Scrutiny Panel needs to be aware?
- The Democratic Services & Scrutiny Manager will receive the referral form either by post or electronically, log it to track its progress and assess the issue to ensure that it is not a matter excluded from referral to Overview & Scrutiny. In accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting;

- The Democratic Services & Scrutiny Manager will inform the Chairman of the Overview & Scrutiny Panel and the item will be included on the next available Committee agenda. The Councillor will be informed whether or not their referral has been successful.

Decision of the Overview & Scrutiny Panel whether to take the matter further

In deciding whether or not to take the matter further the Panel will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Panel should take the matter up.

The criteria the Committee will use to decide whether or not to take the matter further will include:

- Is the Panel satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor? Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- Has the Panel considered a similar issue recently – if yes have the circumstances or evidence changed?
- Is there a similar or related issue, which is the subject of a review on the current scrutiny work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account;
- Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- Is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
- Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community);
- Is this an issue currently being looked at by another form of local scrutiny, e.g. Kent County Council?
- And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's ward?

If the Panel decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Panel decides to accept the CCfA referral, it must decide how it intends to take the matter forward and include the CCfA in its work programme. This could include:

Before holding a formal hearing:

- Asking the service area(s)/partner organisation(s) to respond to the CCfA;
- Setting up a working party to undertake a more in-depth review

At formal hearing:

- Asking for further evidence and/or witnesses to be brought to a future meeting then making recommendations to the relevant Committee/partner organisation.

In considering the CCfA, the Overview & Scrutiny Panel may invite the relevant Cabinet Portfolio holder, Chief Executive, Director Service Manager or external organisation to discuss the issue with the Overview & Scrutiny Panel and answer any questions, if the Committee considers this relevant.

Potential outcomes

Following a formal hearing, there are a number of potential outcomes from the Panel meeting:

- The Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;
- The Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Panel could write a report and make recommendations on the CCfA to the Cabinet or relevant partner(s).

Once the Panel has completed its work on the CCfA referral, the Member who made the CCfA referral will receive a copy of any report or recommendations made. The Democratic Services & Scrutiny Manager will also publish the report on Modern Gov and d on the Council's website <http://www.thanet.gov.uk> unless there are reasons why the Panel considers the matter is an exempt item and as a result the report cannot be made public.

Timescales

Once a CCfA has been assessed as not being a matter that is excluded from referring to Overview & Scrutiny, the item will be included on the next available Committee agenda. (Remember- in accordance with Rule 8 of the Overview and Scrutiny Procedure Rules, a referral form should be received by the Democratic Services & Scrutiny Manager at least two weeks before the date of a meeting of the Overview & Scrutiny Panel if it is to be included on the agenda for that meeting).

If the Panel agrees to take the matter forward, the hearing will usually be held as an item on the next available agenda. In exceptional circumstances, for example where there are unavoidable time constraints, a separate meeting may be convened.

Should a CCfA hearing result in recommendations to the Cabinet, Cabinet must respond to the recommendations, setting out any action it intends to take at its next scheduled meeting.

Should a CCfA hearing result in recommendations to partner organisations, such organisations will also be requested to make a response to the recommendations, although they are under no legal obligation to do so. Any response received will be reported back to the Cabinet and the Overview & Scrutiny Panel.

THANET DISTRICT COUNCIL

Councillor Call for Action (CCfA) Request Form

This form is for District Councillors to raise topics of concern to Thanet District Council to enable investigation by the Overview & Scrutiny Panel, or other method as appropriate.

To ensure that Scrutiny's work is most effective, Members must provide evidence of what they have previously done to try to resolve the issue. When deciding which topics to scrutinise, the primary aim is adding value to the work of the Council, focusing on the things that matter most and which make a real difference to the local community.

For this reason, Scrutiny does not get involved with individual cases or minor matters, which should be addressed through other channels, including the appropriate service area or Ward Councillor. Scrutiny does not deal with individual complaints, which should be directed through the Councils' Complaints Procedure.

Your contact details:

Name (print);

Address:

Contact number:

Email address:

The Ward you represent:

Description of the topic

Please describe as fully as possible what the issue is with specific examples where possible.

Why are you raising the topic?

Please explain what has prompted you to raise the topic, e.g. concerns by residents, etc.

Who does it affect?

Please describe if any other wards / parishes are affected, or if it is local to your ward, how many residents are affected?

What solutions have already been tried?

Please describe what avenues to solve the issue have already been tried and the outcomes.

What outcomes are required?

Although a specific solution may not be possible, it will assist the Committee if you describe what outcomes or solutions you would prefer.

What evidence do you have in support of your CCfA?

Letters



Emails



Agendas/Minutes of meetings



Photographs



Film



Other (please specify)

Is the CCfA currently the subject of legal action by any party (to your knowledge) or is being examined by a formal complaints' process?

What (if any) are the critical deadlines?

Please make clear if there are specific deadlines for this topic.

Would you like the opportunity to speak to the Overview & Scrutiny Panel?

Yes 

No 

Have you approached the Overview & Scrutiny Panel on the same issue in the past six months?

Yes 

No 

Would you like your response by:

Email 

Letter 

Signature:

Date of submission:

Please complete and return the form to:

Glenn Back
Democratic Services and Scrutiny Manager
Thanet District Council
Council Offices
Cecil Street
Margate
Kent CT9 1XZ

Overview & Scrutiny Committee Councillor Call for Action (CCfA) Guidance

The following questions are intended to assist Overview & Scrutiny Committee Members in deciding whether to take up or reject a matter referred as a Councillor Call for Action (CCfA). Positive answers indicate that the matter referred should be taken up and negative answers that they should not be taken up.

Question	Yes	No
1. Does the matter referred relate to a local government function?		
2. Does the matter referred affect all or part of the Member's ward, or anyone living or working in it?		
3. Is it confirmed that the issue referred is not an excluded matter, e.g. planning, licensing or legal procedure?		
4. Is it confirmed that no other relevant body / partner organisation is taking up the matter referred to Overview & Scrutiny as a Councillor Call for Action?		
5. Does the matter referred have the potential for Overview & Scrutiny Members to produce recommendations, which could realistically be implemented, and lead to improvements for anyone living or working in the referring Member's ward?		
6. Has the referring Councillor provided evidence of the steps s/he has taken to try to resolve the issue?		
7. Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?		

Explanatory Notes

1. Definition of a Local Government matter and a local Crime and Disorder matter

Local Government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- Relates to the discharge of any function of the authority;
- Affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (i.e. it must be specific to a particular locality); and
- Is not an excluded matter

Local Crime and Disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- a) Crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- b) The misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area

2. Definitions of ‘vexatious’, ‘persistent’, discriminatory’ and ‘not reasonable’

Statutory regulations deal with matters that can be excluded from CCfA, stating that ‘any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the Overview & Scrutiny Committee is to be excluded’.

Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request, which some Members may regard as vexatious, may actually be entirely reasonable.

CCfA’s need to be looked at on their merits, rather than on the basis of who is bringing them, or whether someone thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the Councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the Councillor's requirements.

Discriminatory

A modern interpretation of the word 'discrimination' is provided at Section 45 of the Equality Act 2006, in relation to religion and belief, as follows:

A person (A) discriminates against another (B) if on the grounds of the religion or belief of (B) or of any other person except (A), treats (B) less favourably than he treats others. This definition can easily be amended to deal with other forms of discrimination, such as discrimination for reasons of sex and/or race. So a discriminatory CCfA might be one which implies or states that a group of people or an area receives better, or worse, services on account of that group's predominant religion, race, sex or other characteristic, as covered by discrimination legislation.

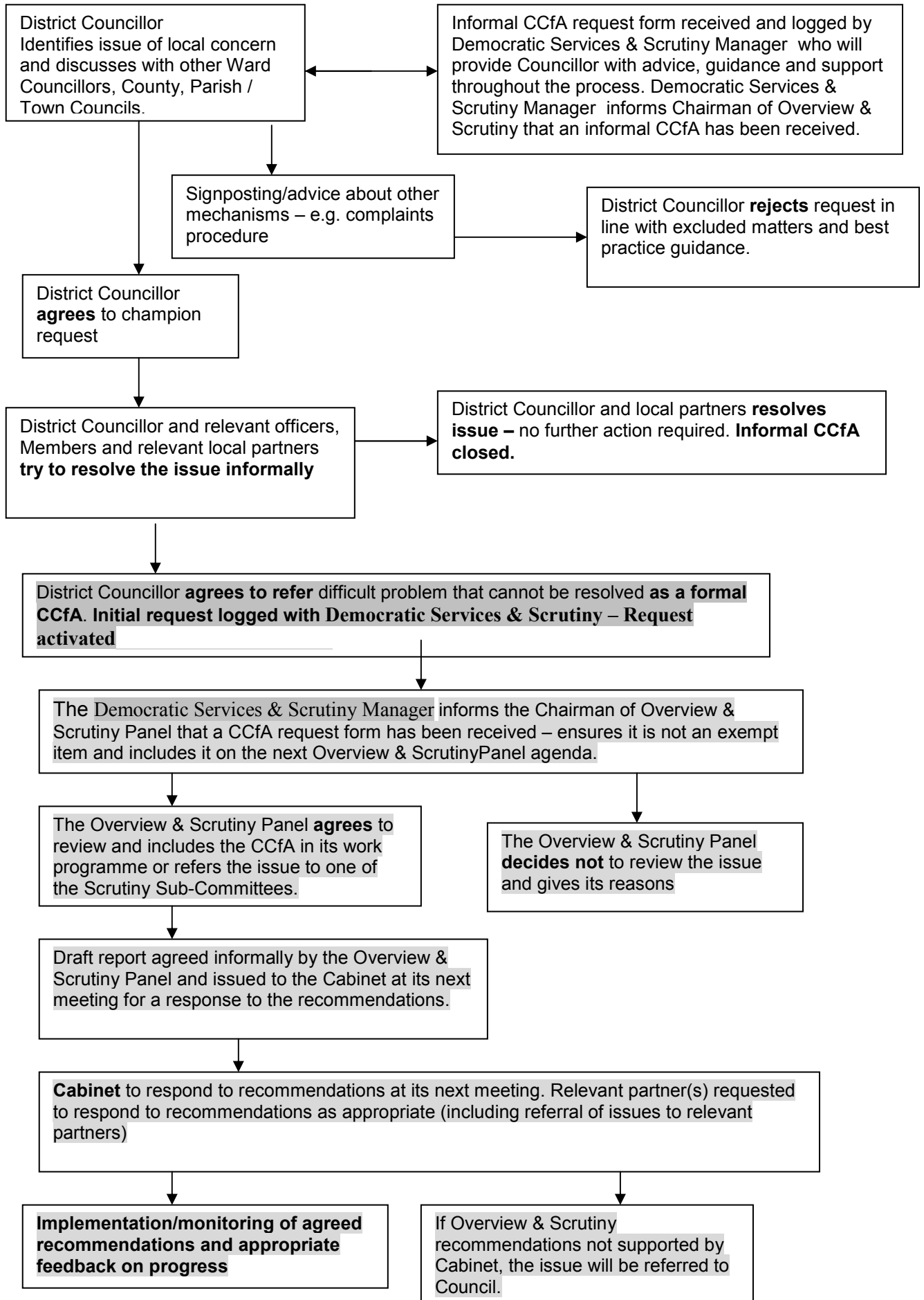
Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret 'not reasonable' as being the same as the legal word 'unreasonable'. It is best to consider it as a qualifier to the word 'vexatious', as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

3. Structure of the CCfA hearing

The Chairman of the Overview & Scrutiny Panel will determine the most appropriate arrangements for considering the CCfA matter.

Flow Chart of CCfA Mechanism



STANDARDS COMMITTEE

1.1. General

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

1.2 Membership, Chairmanship and Quorum

Number of Members	Twelve members comprising five District Councillors, four Independent Members and the three Town/Parish Representatives
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	By resolution of full Council. Appointment of Independent Members must be supported by not less than 50% of full Council
Restrictions on Membership	Cabinet Leader ineligible
Restrictions on Chairmanship/Vice-Chairmanship	Only an Independent Member can be elected Chairman and Vice Chairman.
Quorum	Three - including the Independent Member (and one Town/Parish Representative if Parish matters are to be considered)
Number of ordinary meetings per Council Year	Meetings will be called as required
Standing Sub Committees	Referrals Sub Committee, Review Sub Committee and Standards Sub Committee

1.3 Terms of Reference

1. Recommending to Council for approval the terms of the Code of Conduct for Members and any alterations or amendments thereto.
2. Recommending to Council for approval the terms of the Code of Conduct for Officers and any alterations or amendments thereto.
3. Recommending to Council for approval the terms of any other codes or protocols relating to matters of conduct, ethics or propriety, including without limitation the Protocol on Member/Officer Relations and the Protocol on the Guidance of Planning Committee Members and Officers and any alterations or amendments thereto.
4. Receiving the recommendations of the Constitution Review Working Party Working and recommending to Council the terms of the Constitution for Governance of Thanet District Council

5. Promoting and maintaining high standards of conduct by elected and co-opted members.
6. Monitoring and keeping under review the codes and protocols referred to in sub- paragraphs 1 to 3 above.
7. Assisting elected and co-opted members to observe the codes and protocols referred to in sub-paragraphs 1 to 3 above.
8. Advising on training or arranging training for elected and co-opted members on matters relating to the adopted Members Code of Conduct.
9. So far as permitted by law, granting dispensations to elected and co-opted members from the requirements relating to interests set out in the adopted Members Code of Conduct.
- 10 Responsibility for establishing the following Sub Committees to carry out the following functions:-
 - 10.1 A Standards (Referrals and Review) Sub Committee with responsibility for determining whether a complaint alleging a failure to comply with the Members Code of Conduct is to be referred to the Monitoring Officer for investigation or other action or referred to the Standards Board For England;
 - 10.2 A Standards (Hearings) Sub Committee with responsibility for considering reports referred to it by the Standards Committee and conducting hearings in relation thereto.
- 11 Taking reasonable steps to provide a written summary of a complaint alleging a failure to comply with the Members Code of Conduct to the member who is the subject of the complaint including responsibility for determining not to provide a written summary on the grounds that to do so would be contrary to the public interest or would prejudice any person's investigation of the complaint.
- 12 Determining whether a 'finding of failure' report by or on behalf of the monitoring officer or a report referred to the monitoring officer by an ethical standards officer pursuant to Sections 64(2) or (4) of the Local Government Act 2000 is to be referred to the Standards (Hearings) Sub Committee or to a First Tier Tribunal.
- 13 The exercise of the responsibilities set out in sub-paragraphs 1 to 11 above in relation to the Town and Parish Councils established in the administrative area of Thanet District Council and the elected and co-opted members of those Councils and for this purpose any reference in these Terms of Reference to the 'Members Code of Conduct' shall where the context so requires include any of the Members Codes of Conduct from time to time adopted by any of the Town and Parish Councils established in the administrative area of Thanet District

Council.

- 14 Responsibility for the overview of the Council's complaints procedure including ombudsman investigations.
- 15 Responsibility for the overview of the Council's members and officers whistle-blowing policies.

1.4 Delegations

The matters referred to in sub-paragraphs 5 to 15 (inclusive) above.

1.5. Notes

1. The role and composition of the Standards Committee is regulated by the Standards Committee (England) Regulations 2008.
2. The power to appoint members to the Standards (Referrals and Review) and Standards (Hearings) Sub-Committees has been delegated to the Monitoring Officer. Members are appointed for a single meeting/hearing only.
3. The Standards Committee has resolved to delegate the duty referred to in Section 57C (2) of the Local Government Act 2000 (duty to provide a written summary of a complaint to the Standards (Referrals and Review) Sub Committee (Minute 6/2008 refers).

2. STANDARDS (REFERRALS AND REVIEW) SUB COMMITTEE

2.1. General

A Sub Committee of the Standards Committee established to conduct:

- (i) an initial assessment of a complaint alleging that an elected or co-opted Member of the Council or of a Town or Parish Council established in the administrative area of Thanet District Council failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council and to determine whether any further action should be taken on the complaint; and
- (ii) a review of any decision of the Sub-Committee (acting as a Referrals Sub-Committee conducting an initial assessment of a complaint) to take no further action in respect of a complaint alleging that an elected or co-opted Member of the Council or of a Town or Parish Council established in the administrative area of Thanet District Council failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council.

2.2 Membership, Chairmanship and Quorum

Number of Members	Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a town or parish councillor, at least one Town/Parish Representative
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer is authorised to appoint members on a per meeting in accordance with the requirements of The Standards Committee (England) Regulations 2008
Restrictions on Membership	Reserved to members of the Standards Committee. A member who has sat on the Sub Committee conducting an initial assessment of a complaint may not sit on the Sub Committee if it required to conduct a review of the decision of the Sub Committee on relation to the initial assessment of the complaint
Restrictions on Chairmanship	The chairman of any meeting must be one of the Independent Members.
Quorum	Three - including one Independent Member and one Town/Parish Representative if the complaint concerns a Town or Parish Councillor.
Number of ordinary meetings per Council Year	Meetings will be called as required

2.3 Terms of Reference

As a Referrals Sub Committee:

1. When required to do so to conduct the initial assessment of a complaint alleging that an elected or co-opted Member of the Council or of a Town or Parish Council establishes in the administrative district of Thanet failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council and determine whether to:
 - (i) Refer the complaint to the Standards Board for England; or
 - (ii) Refer the complaint to the Monitoring Officer with a direction that it be investigated; or
 - (iii) Refer the complaint to the Monitoring Officer with a direction to take steps other than carrying out an investigation; or
 - (iv) Take no further action in respect of the complaint; or

- (v) Where the complaint is in respect of a person who is no longer a member of Thanet District Council or one of the Town or Parish Council's established in Thanet but is still a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), to refer the allegation to the Monitoring Officer of that other relevant authority
2. To determine a request from a complainant that his identity be kept confidential.
 3. To discharge the duty imposed on the Standards Committee to take reasonable steps to provide a written summary of a complaint to the member who is the subject of the complaint including responsibility for determining not to provide a written summary on the grounds that to do so would be contrary to the public interest or would prejudice any person's investigation of the complaint.
 4. To produce a written summary of its consideration of a complaint to include the main points considered, its conclusion on the complaint and the reasons for that conclusion and to make arrangements to ensure that such summary is available for inspection by members of the public at the Council Offices for a period of six years beginning with the date of the meeting that considered the complaint

As a Review Sub Committee:

5. When required to do so to conduct a review of a decision of the Sub Committee (acting as a Referrals Sub-Committee conducting an initial assessment of a complaint) to take no further action in respect of a complaint alleging that an elected or co-opted Member of the Council or of a Town or Parish Council establishes in the administrative district of Thanet failed to comply with the Code of Conduct for elected and co-opted Members adopted by their Council, and determine whether to:
 - (vi) Refer the complaint to the Standards Board for England; or
 - (vii) Refer the complaint to the Monitoring Officer with a direction that it be investigated; or
 - (viii) Refer the complaint to the Monitoring Officer with a direction to take steps other than carrying out an investigation; or
 - (ix) Uphold the decision of the Referrals Sub Committee to take no further action in respect of the complaint; or
 - (x) Where the complaint is in respect of a person who is no longer a member of Thanet District Council or one of the Town or Parish Council's established in Chiltern but is still a member of another relevant authority (as defined in Section 49 of the Local

Government Act 2000), to refer the allegation to the Monitoring Officer of that other relevant authority

6. To produce a written summary of its consideration of the review of the decision of a Referrals Sub Committee in relation to a complaint to include the main points considered, its conclusion on the review and the reasons for that conclusion and to make arrangements to ensure that such summary is available for inspection by members of the public at the Council Offices for a period of six years beginning with the date of the meeting that conducted the review.

2.4 Delegations

All matters in the Terms of Reference are fully delegated.

2.5. Notes

1. These Terms of Reference were approved by the Standards Committee on xxxxx 20101 (Minute xx/ 2010 refers)
2. The power to appoint Members to the Sub-Committee has been delegated by the Standards Committee to Monitoring. Members are appointed for a single meeting/hearing only.
2. The Standards Committee has also agreed to delegate the duty referred to in Section 57C (2) of the Local Government Act 2000(as amended) (duty to provide a written summary of a complaint) to the Referrals Sub Committee (Minute 6/2008 refers)
3. The arrangements made by the Sub-Committee to secure the discharge of its duty to publish a written summary if its decision on review are that the Monitoring Officer will place a copy of such decision on deposit for inspection by members of the public at the offices of Thanet District Council.

3. STANDARDS (HEARINGS) SUB COMMITTEE

3.1. General

A Sub Committee of the Standards Committee established to conduct hearings into allegations that a district, town or parish council or a co-opted members of a district, town or parish council failed to comply with the terms of the Code of Conduct for elected or co-opted Members or that a district councillor or co-opted member of the Council failed to comply with an adopted local or non-statutory Code or Protocol governing the ethical conduct of elected or co-opted members.

3.2 Membership, Chairmanship and Quorum

Number of Members	Three members of the Standards Committee including in all cases an Independent Member and in the case of a complaint against a town or parish councillor, at least one Town/Parish Representative
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	The Monitoring Officer is authorised to appoint members on a per meeting in accordance with the requirements of The Standards Committee (England) Regulations 2008.
Restrictions on Membership	Reserved to members of the Standards Committee
Restrictions on Chairmanship/Vice-Chairmanship	The chairman of any meeting must be one of the Independent Members .
Quorum	Three - including one Independent Member and one Town/Parish Representative if the complaint concerns a Town or Parish Councillor.
Number of ordinary meetings per Council Year	Meetings will be called as required

3.3 Terms of Reference

1. To hold a hearing and make a determination in relation to a ‘finding of failure’ report referred to it by the Standards Committee
2. To hold a hearing and make a determination in relation to a report from an ethical standards officer referred to it by the Standards Committee.
3. To hold a hearing and make a determination in relation to a complaint referred to it by the Standards Committee alleging a breach of any local or non-statutory Code or Protocol governing the ethical conduct of elected or co-opted members from time to time adopted by the Council
4. In any case where the Sub Committee determines that a member has failed to comply with the Members Code of Conduct or with any local or non-statutory Code or Protocol governing the ethical conduct of elected or co-opted members, to determine whether to take no further action or impose a sanction
5. To give notice in writing of any of its determinations in compliance with Regulation 20 of the Standards Committee (England) Regulations 2008.

3.4 Delegations

All matters in the Terms of Reference are fully delegated.

3.5 Notes

1. The power to appoint Members to the Sub-Committee has been delegated by the Standards Committee to the Monitoring Officer. Members are appointed for a single meeting/hearing only.