

# Public Document Pack



Date: 16 October 2012  
Ask For: Anona Somasundaram  
Direct Dial: (01843) 577046  
Email: anona.somasundaram@thanet.gov.uk

## CONSTITUTIONAL REVIEW WORKING PARTY

24 OCTOBER 2012

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Wednesday, 24 October 2012** in the Chairman's Office, 1st Floor, Council Offices.

### Membership:

Independent Members: Mr R Hills (Chairman) and Mrs L Frampton (Vice-Chairman);

Councillors: Hayton, Nicholson, Watkins and Wright

## A G E N D A

Item  
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES OF PREVIOUS MEETING** (Pages 1 - 4)  
To approve the Minutes of the Constitutional Review Working Party meeting held on 26 June 2012, copy attached.
4. **USE OF MOBILE TELEPHONES DURING PUBLIC MEETINGS** (Pages 5 - 12)
5. **THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012** (Pages 13 - 54)

This page is intentionally left blank

## CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 26 June 2012 at 10.00 am in Chairman's Office, 1st Floor, Council Offices.

**Present:** Mr Robin Hills (Chairman); Councillors Hayton, Nicholson, Watkins and Wright

### 29. APOLOGIES FOR ABSENCE

An apology for absence was received from Mrs Frampton.

### 30. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 31. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Hayton, seconded by Councillor Watkins, the minutes of the meeting of the Working Party held on 26 April 2012 were approved and signed as a correct record.

### SPEAKING UNDER COUNCIL PROCEDURE RULE 24.1

Councillor Hayton expressed the view that a limit should be imposed on the time allowed for Members of Council to speak at Working Party meetings under Council Procedure Rule 24.1.

### 32. LOCALISM ACT 2011 - REVISED MEMBERS CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH COMPLAINTS AND CONSEQUENTIAL AND RELATED MATTERS

The Monitoring Officer pointed out that the fine referred to at paragraph 1.2 (xiv) of the report was a Level 5 fine and could therefore go up to £5,000 (not £2,500, as stated in the report).

Other amendments to the Report were agreed as follows:

- i. **Para 1.2 (xii)** – Registers of Interest - amended to read:

“The Monitoring Officer would have to continue to maintain a Register of Interests for ~~both~~ District and Town/Parish Councillors and co-opted Members ...”

- ii. **1.6** (last sentence) – amended to read:

“The Standards Committee could then make recommendations . . . in the knowledge of whether the pending regulations would, for example, permit an existing or former Independent Member of the Standards Committee to be eligible for appointment as an Independent Person under the new framework.”

The Monitoring Officer outlined the key elements and background to the four annexes, and the Working Party **AGREED TO RECOMMEND:**

### CODE OF CONDUCT FOR MEMBERS – ANNEX 1

1. that, in accordance with the recommendation of the Standards Working Party, the Code need not contain a general conduct obligation to treat others with respect (para 3.1 of report refers);
2. that, in accordance with the recommendation of the Standards Working Party, the words, "claiming to act or giving the impression that you are acting" be added to para 1.2 (preamble) of the Code, to read:

"The Code applies to you as a Member or Co-opted Member of the Thanet District Council when acting, **claiming to act or giving the impression that you are acting** in that capacity". (para 3.1 of report refers);

3. that, in accordance with the recommendation of the Standards Working Party, where "Other Significant Interest" is referred to within the Code, these words should be substituted with, "Significant Interest".

### **Adoption of Code of Conduct**

On the proposal of Councillor Hayton, seconded by Councillor Watkins, it was AGREED TO RECOMMEND that the Code of Conduct be adopted, subject to the amendments outlined at recommendations numbered 1 & 2 above.

### **ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS – ANNEX 3**

**Anonymity of complainant** (Paras 4.20 & 6.1, Arrangements, Para 5 of Annex 2, Procedure)

4. that the words, "Independent Person" in the second sentence of Para 6.1 of the Arrangements and the first sentence of Para 5.4 (Annex 2 to Arrangements) should be substituted with "Standards (Assessment) Sub Committee".

Upon some Members expressing reservations about the possibility of the complainant's identity and/or the nature of complaint being withheld, the Monitoring Officer assured Members that anonymity would only occur in exceptional circumstances, as outlined at para 5.2, Annex 2 to the Arrangements, and only then if there was also supporting evidence of the circumstances. Furthermore, the identity and / or nature of complaint would be disclosed upon determination of the action to be taken in relation to the complaint.

**Legal Jurisdiction Criteria Test / Local Assessment Criteria** - Paras 1.2 & 1.4 of Annex 2 to Arrangements - Procedure on receipt of a complaint

5. that, in accordance with the recommendation of the Standards Working Party, the following tests be moved from "legal jurisdiction criteria" (para 1.2) to "Local Assessment Criteria (para 1.4):
  - (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
  - (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?

**Decision Notice prepared by the Monitoring Officer** (Para 9.4, Arrangements)

6. that the first sentence of paragraph 9.4 should be amended to read:

"Within five working days of the determination of action to be taken, the Monitoring Officer will prepare a written Decision Notice giving the reasons for his decision ..."

**Investigating Officer's Opinion – “No Breach”** (Para 12, Arrangements & Para 3.2 to Annex 3 to Arrangements – Procedure for Investigating)

7. that Para 12.1 of the Arrangements & Para 3.2 of Annex 2 to the Arrangements (Procedure for Investigating) be amended to include a requirement that the Monitoring Officer reports the outcome of the decision to the Standards Committee.

**Standards (Hearings) Sub Committee – Hearings Procedure** (Annex 4 to Arrangements)

8. that the Standards (Hearings) Sub Committee be an advisory committee which would make recommendations to the Monitoring Officer.
9. (On the proposal of Councillor Nicholson, seconded by Councillor Watkins) that the Standards (Hearings) Sub Committee be chaired by an Independent Member of the Standards Committee
10. that the wording of Annex 4 (Hearings Procedure) be changed to reflect the recommendations numbered 9 & 10 above.

**Possible Sanctions** (Para 4.1 of Annex 4 – Hearings Procedure)

11. that, in accordance with the recommendation of the Standards Working Party's recommendation, the following sanction should be added to the list at para 4.1:

“Recommending to Council that the Subject Member be removed from the office of Leader of the Council”.

**Adoption of Arrangements** (Annex 3)

On the proposal of Councillor Nicholson, seconded by Councillor Hayton, it was AGREED TO RECOMMEND that, subject to recommendations numbered 4 to 11 above, the Arrangements for dealing with the Code of Conduct Complaints under the Localism Act 2011 and Annexes 2 to 4 thereto, be adopted.

**DRAFT TERMS OF REFERENCE FOR A VOLUNTARY STANDARDS COMMITTEE INCLUDING THE TERMS OF REFERENCE FOR A STANDARDS (ASSESSMENT) SUB COMMITTEE AND A STANDARDS (HEARINGS) SUB COMMITTEE – ANNEX 2**

**The (Voluntary) Standards Committee – Membership, Chairmanship and Quorum**

12. that, in accordance with the recommendation of the Standards Working Party, “crude” or “approximate”, rather than strict, political balance be applied to the voluntary Standards Committee;
13. that, in accordance with the recommendation of the Standards Working Party, “Cabinet Leader ineligible” should read, “Leader of the Council and Political Group Whips ineligible”;
14. that, in accordance with the recommendation of the Standards Working Party, none of the three Town/Parish Representatives included in membership should also be a Thanet District Councillor;
15. that there be four meetings per year, to be included in the Calendar of Meetings;
16. that the Chair and Vice-Chair of the Standards Committee be Independent Members of the Standards Committee.

**Standards (Assessment) Sub Committee – Membership, Chairmanship and Quorum**

17. that the Chair of the Standards (Assessment) Sub Committee be an Independent Member of the Standards Committee.

**Standards (Hearings) Sub Committee**

18. that, in accordance with recommendations numbered 8 & 9 above, the Chair of the Standards (Hearings) Sub Committee be an Independent Member of the Standards Committee.

**Adoption of Terms of Reference of Standards Committee & the Standards (Assessment) and (Hearings) Sub Committees**

On the proposal of Councillor Hayton, seconded by Councillor Nicholson, it was AGREED TO RECOMMEND that, subject to recommendations numbered 12 to 18 above, the terms of reference as set out in Annex 2 be adopted.

**PROPOSED AMENDMENTS TO THE COUNCIL PROCEDURE RULES AND SCHEME OF DELEGATIONS TO OFFICERS - ANNEX 4**

It was AGREED TO RECOMMEND that the Constitutional changes as set out at Annex 4 be approved, subject to “Other Significant Interest” being changed to “Significant Interest”, in accordance with the recommendation numbered 3 above.

**33. REVIEW OF THE CONSTITUTIONAL PROCESSES APPLYING TO URGENT DECISIONS**

It was AGREED TO RECOMMEND, on the proposal of Councillor Hayton, seconded by Councillor Watkins:

1. that Options (a), (b) and (c) as set out at paragraph 2.2.4 of the report be adopted;
2. that the previous recommendation of the Working Party in relation to the amendment of Access to Information Procedure Rule 20.1, as set out at paragraph 2.3.1 of the report, be adopted.

**34. LEADER'S REPORT**

On the proposal of Councillor Watkins, seconded by the Chairman, it was AGREED TO RECOMMEND:

1. That CPR 2.2 is amended to reinstate the missing first paragraph as follows:
 

“The Leader of the Council may make an oral report, not exceeding ten minutes, on key issues arising since the last meeting of Council”.
2. That CPR 2.2 be further amended to read, “... The total time (including time slots as mentioned above) ~~being~~ will be limited to 31 minutes”.

Meeting concluded : 12.23 pm

---

**Title: Use of mobile communications devices at meetings**

To: **Constitutional Review Working Party – 24 October 2012**

Main Portfolio Area: **Democratic Services**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

---

**Summary: To consider the use of mobile communications devices at meetings**

**For Decision**

---

**1.0 Introduction and Background**

1.1 Requests have been received from two Members of Council to refer to the Working Party the desirability of having a policy for Councillors, officers and members of the public on the use of mobile communications devices at meetings.

**2.0 The Current Situation**

2.1 Currently, there is a notice in the public gallery of the council chamber, advising that the unauthorised recording or relaying of proceedings of meetings is strictly prohibited.

2.2 At the beginning of meetings, it is practice for Chairmen to request everyone present to ensure that their mobile 'phones are turned to silent and that they are not used to make or receive 'phone calls whilst the meeting is in progress.

2.2 In order to determine the policies of neighbouring councils in relation to use of mobile 'phones and laptops at meetings, a telephone survey was carried out. The responses are summarised at Annex 1. It will be noted that in one case, it is currently expected that mobile 'phones are turned off by everyone present for the duration of the meeting; in one case, recording of meetings is prohibited by members of the public, but not by committee attendees; and that in two of the cases where use of mobile phones is permitted, recording of proceedings is prohibited. It will also be noted that in all four cases there appears to no limitation on the use of laptops at meetings.

2.3 An online search was also carried out with a view to establishing what practices and policies apply to a wider range of councils. A sample of results, which is summarised at Annex 2, might help to inform the Working Party's discussion. Owing to the nature of the online search, it has not been possible to sub-divide the results in a similar way to Annex 1. It will be noted, that with the exception of Brighton & Hove, recording of proceedings is either not permitted or is permitted only with consent being obtained to do so; that Oxford and Salford encourage councillors to switch off their mobile devices during council meetings; that Wyre, which allows use of social media by the press and public, disallows such use by members of a committee.

### **3.0 Corporate Implications**

#### **3.1 Financial and VAT**

3.1.1 There are no financial implications.

#### **3.2 Legal**

3.2.1 The council's constitution will require to be amended should a new / amended policy be ultimately agreed by council.

#### **3.3 Corporate**

3.3.1 The Council strives to maintain openness and transparency in the conduct of public meetings. However, most local authorities set some boundaries on the use of modern mobile communications devices, in order that their use does not impede the effective running of meetings. Such boundaries are, within legal constraints, ultimately for Council to decide.

#### **3.4 Equity and Equalities**

3.4.1 None Apparent

### **4.0 Recommendation**

4.1 The Working Party's instructions are requested.

### **5.0 Decision Making Process**

5.1 Any recommendations by the Working Party that would alter the Council's constitution will be considered by the Standards Committee, which will, in turn, make recommendations to Council.

Meeting: Standards Committee	Date: 7 November 2012
Meeting: Ordinary Council	Date: 6 December 2012

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager
Reporting to:	Harvey Patterson, Corporate & Regulatory Services and Monitoring Officer

#### ***Annex List***

Annex 1	Responses from other East Kent Councils
Annex 2	Responses from councils outside of East Kent

#### ***Background Papers***

<b>Title</b>	<b>Details of where to access copy</b>
<i>None</i>	

#### ***Corporate Consultation Undertaken***

Finance	N/A
Legal	Harvey Patterson, Corporate & Regulatory Services Manager and Monitoring Officer



OTHER EAST KENT COUNCILS' PRACTICES AND POLICIES – USE OF MOBILE PHONES AND LAPTOPS AT MEETINGS

EAST KENT COUNCILS	Practice / Policy – mobile phones		Practice / Policy – laptops	
	Committee Members	Members of the Public	Committee Members	Members of the Public
<b>Canterbury</b>	Recording of meetings prohibited.	Recording of meetings prohibited	No limitations on the use of laptops at meetings. Use of ipads being piloted at present	No limitations on the use of laptops at meetings.
<b>Dover</b>	Basic rule is that recording of meetings or anything that would unreasonably disrupt the meeting is prohibited. [It is intended, however, to review policy in the near future]	Use of mobile phones <u>not</u> permitted as it interferes with the microphone system, and therefore the hearing loop. To that end, mobile phones are required to be switched off by the public when entering meeting rooms.	Laptops/ tablets permitted by councillors to enable them to view agenda information at the meeting.	Same as for councillors; however, it is stressed to members of the public with a laptop that they are not permitted to use any built-in webcams or microphones to record anything.
<b>Shepway</b>	Policy that Councillors' mobile phones are to be <u>turned off</u> before proceedings commence. An announcement is made at the beginning of meetings to that effect.  A review is expected to take place in the near future.	It is expected that members of the public turn off 'phones, but this has not been enforced.	No policy; no-one ever takes a laptop to meetings	Same as for committee members
<b>Ashford</b>	No policy – but committee members are asked to switch their 'phones to be on silent.	Same as for committee members	Some Councillors use laptops at meetings to view meeting agenda information.	No policy; no member of the public has been known to take a laptop to a meeting.

This page is intentionally left blank

PRACTICES AND POLICIES OF COUNCILS OUTSIDE OF EAST KENT – USE OF ELECTRONIC COMMUNICATION DEVICES AT MEETINGS

Policy – use of mobile phones / recording at meetings	
Committee Members	Members of the Public
<b>Kent County Council</b>	<p><b>Constitution</b> (currently published): <b>Appendix 4 Part 2: Rules applying to council and committee meetings</b></p> <p><b>Recording meetings:</b>                      2.2 (1) “No audio or visual recording shall be made at meetings except for the official recording by the clerk or recordings agreed by the Chairman to be made by a media organisation.”                      2.2 (2) “Recording of council proceedings will be made available by the Clerk to any Member who requests them.”</p>
<b>Maidstone Borough Council</b>	<p><b>Constitution</b> (currently published): <b>Rule of Procedure 3 – Records of Proceedings/Photographs at Town Hall</b></p> <p>(b) “No one will film, photograph or record any of the public proceedings of any meeting of the authority unless a request to do so has been received by the Director of Regeneration and Communities who will determine the request in consultation with the chairman of the body concerned.”</p>
<b>Brighton &amp; Hove City Council</b>	<p><b>Constitutional change – Council Procedure Rule 31</b></p> <p>CPR 31.2 was amended at the council meeting on 20 October to read (new wording underlined; former wording in italics and in brackets):</p> <p>“Any person attending a meeting of the council or of a Committee or Sub Committee (<i>wording removed: “shall observe the Council’s rule that mobile telephones must be switched off at all times during such meetings”</i>) may use a mobile communications device and audio record and transmit proceedings provided that:</p> <ul style="list-style-type: none"> <li>i) <u>Any mobile communications device shall be kept in silent mode throughout the meeting;</u></li> <li>ii) <u>There shall be no use of any voice facility to make calls, receive calls or check voice messages. Only text or non-voice uses can be made of mobile phones</u></li> <li>iii) <u>The person presiding at the meeting may require all mobile phones to be switched off and any audio recording cease at any time if they consider that the use of devices is not conducive to the proper running of the meeting</u></li> <li>iv) <u>There shall be no recording or transmission of council proceedings when exempt business is discussed or at meetings of the Licensing Committee Panels.”</u></li> </ul> <p><sup>2</sup> <b>See below</b> for policy on cameras / TV cameras</p>

**PRACTICES AND POLICIES OF COUNCILS OUTSIDE OF EAST KENT – USE OF ELECTRONIC COMMUNICATION DEVICES AT MEETINGS**

<b>Policy – use of mobile phones / recording at meetings</b>	
Committee Members	Members of the Public
<p><b>Wyre Forest District Council</b></p>	<p><b>Constitution</b> (currently published) <b>Council procedure rule 3.15:</b></p> <p><b>3.15 (i)</b> "Council will record and broadcast all of its meetings with the exception of exempt items ... unless there is the express consent of the Chairman individuals shall be prohibited from taking photographs, film video or sound recordings, or using of any radio transmitting equipment at any meeting of the Council or any Committee".</p> <p><b>3.15 (iii)</b> "Members of a Committee are prohibited from using ICT to access social media, texting, emailing or social media texts or emails during a meeting of Council or any Committee."</p> <p><b>3.15 (iv)</b> "Members and officers are prohibited from using ICT to make or receive calls at meetings held in public and all mobile phones / handheld devices that allow calls to be made or received are to be turned to silent or off."</p>
<p><b>Salford City Council</b></p>	<p><b>Council agenda for 19 September 2012:</b></p> <p>"Councillors are requested to ensure that their electronic equipment is on silent and not used during the Council meeting".</p> <p><b>Council agendas prior to that:</b></p> <p>"Members are requested to ensure that their mobile telephones are switched off during the council meeting".</p> <p>(Constitution searched for reference to use of mobile phones – none found)</p>
	<p><b>Council procedure rule 3.15 (ii)</b></p> <p>"The use of social media by the press and public is permitted although this should be read in conjunction with paragraph 3(i)" - see "committee members section"</p>

**PRACTICES AND POLICIES OF COUNCILS OUTSIDE OF EAST KENT – USE OF ELECTRONIC COMMUNICATION DEVICES AT MEETINGS**

<b>Policy – use of mobile phones / recording at meetings</b>	
<b>Hyndrum Borough Council</b>	<p style="text-align: center;"><b>Committee Members</b></p> <p><b>Part 5L of constitution (currently published) – use of mobile phones, social media, filming and recording of meetings</b></p> <p><b>3.1</b> “To minimise disruption to others attending the meeting, all attendees must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting”.</p> <p><b>3.2</b> “... The full attention of Councillors who are members of the meeting (full Council, Cabinet, Committee, etc) is required at all times and these Councillors must not be distracted by using social media or any mobile devices.”</p> <p><b>3.3</b> “No Councillor in attendance, whether a decision-maker or observer, is permitted to use social media or mobile devices during a private session, or to disclose in any way the content of the items under discussion.”</p>
<b>Oxford City Council</b>	<p style="text-align: center;"><b>Members of the Public</b></p> <p><b>Part 5L of constitution – use of mobile phones, social media, filming and recording of meetings</b></p> <p><b>3.1</b> “To minimise disruption to others attending the meeting, all attendees must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting”.</p> <p><b>3.2</b> The use of social media in formal meetings is permitted for members of the public, press and Councillors who are <u>not</u> members of the meeting, so long as this does not cause any disruption or disturbance. The Chair’s decision on this point is final.</p>
<b>Oxford City Council</b>	<p><b>Minutes of Council meeting on 16 July 2012:</b></p> <p><b>(As part of Lord Mayor’s announcements)</b></p> <p>“Members should switch off mobile devices unless:</p> <ul style="list-style-type: none"> <li>- they were expecting an urgent call in which case they should use the vibrate mode for incoming calls and messages</li> <li>- they were using a mobile device to read the council agenda”.</li> </ul>

**PRACTICES AND POLICIES OF COUNCILS OUTSIDE OF EAST KENT – USE OF ELECTRONIC COMMUNICATION DEVICES AT MEETINGS**

<b>Policy – use of mobile phones / recording at meetings</b>	
<b>Committee Members</b>	<b>Members of the Public</b>
<p><b>Milton Keynes Council</b></p> <p><u>Practice – Council meetings</u></p> <p>Council agendas state:</p> <ul style="list-style-type: none"> <li>- “Please ensure that your mobile phone is switched to silent or is switched off completing during the meeting”;</li> <li>- “The proceedings at this meeting may be recorded for the purpose of preparing the minutes of the meetings”</li> </ul> <p>(constitution searched for reference to use of mobile phones – nothing found)</p>	<p><u>Members of the Public</u></p>
<p><b>East Devon District council</b></p> <p><u>Practice – mobile phones</u></p> <p>Council agenda front sheets state:</p> <ul style="list-style-type: none"> <li>- “Councillors and members are minded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting”.</li> </ul> <p><u>Policy – recording of proceedings</u></p> <p>Constitution, Part 4 – Rules of Procedure, 4.1 Procedural Standing Orders</p> <p>Rule 19.1 – removal of member of the public</p> <p>“If a member of the public interrupts proceedings or is found to be unlawfully recording the proceedings of the meeting, the Chairman will warn the persons concerned. If they continue to interrupt or record the meeting, the Chairman will order their removal from the meeting room and the forfeiture of the unauthorised recording.”</p>	

<sup>1</sup> **Constitution CPR 31.1: Brighton & Hove City Council – policy on Cameras/TV Cameras:** Subject to prior approval, which shall be at the absolute discretion of the person presiding at the meeting, one or more accredited representatives of newspapers (including representatives of news agencies, radio and television organisations etc) or any other person may be permitted to film, video or photograph the proceedings at Council meetings except for that part of the meeting where the public are excluded ...

---

## THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

To: **Constitutional Review Working Party – 25 October 2012**

Main Portfolio Area: **Leader and Cabinet Member for Corporate, Regulatory and Strategic Economic Development Services**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

---

**Summary:** This paper outlines the changes to the Access to Information Regulations and how the Council will have to amend its procedures and constitution to comply with these new rules.

### **For Decision**

---

#### **1.0 Introduction and Background**

- 1.1 The new Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 were laid before Parliament on 15 August and came in to effect on 10 September 2012. These regulations clarify and extend the circumstances in which local authority executive decisions must be open to the public.
- 1.2 The changes were reviewed by SMT over two meetings, they have agreed a number of changes to allow the Council to comply with the new regulations and are now asking the Constitutional Review Working Party to review these amendments, make comments and recommend them on to the Standards Committee.

#### **2.0 The Forward Plan**

- 2.1 The Leader is currently required to publish a Forward Plan of key decisions that the Cabinet will take over a four month period (in practice in Thanet the time period has been significantly longer) on a monthly basis at least 14 days before the start of the period covered. In addition an annual notice was required to be published in a local newspaper showing the dates on which the plan was to be published throughout the year. This requirement for publication of the dates of future publication of the Forward Plan was repealed from the 10 September.
- 2.2 There is a new requirement that means a “document” must be published containing a key decision 28 clear days<sup>1</sup> before that decision is to be taken (either by Cabinet or an individual portfolio holder). In addition there are some small changes to the list of information that needs to be shown in such a document, the most significant of which is that it is no longer required to state the names of consultees or the means of consultation when taking a decision.

---

<sup>1</sup> Counsels opinion to the Association of Council Secretaries and Solicitors indicates that all references to 28 clear days should be interpreted as calendar days, however references to five clear days should be considered as references to working days)

2.3 If it is not possible to comply with the 28 days notice then there is a continuing, albeit amended urgency process of notifying the Chairman of the Overview and Scrutiny Panel before the decision can be taken. In addition if an item is so urgent that it could not wait five working days before being implemented then there is a way of taking these decisions, however the decisions would still have to be exempted from call-in under the existing Overview and Scrutiny rules. In either of these two cases there is a new provision that the Council must publish why it did not give 28 days notice of a decision. These two types of exceptions are explained in full in paragraph 6.0 below.

2.4 The new legislation does not allow for the existing practice of entering “not before a certain date” within the document. The legislation requires that “the date on which, or the period within which the decision is to be made” must be stated on the new document. Thus it is acceptable to specify a period between two specific dates.

### **3.0 Proposals for the new “Forward Plan”**

3.1 In order to comply with the regulations the SMT recommend that the Council will, in future, publish a document that will bear significant similarities to the existing Forward Plan. In order to ensure that key decisions can be taken in line with the new requirements, the new document will be published 28 clear (calendar) days in advance of scheduled Cabinet meetings. A list of publication dates is attached at Annex 1 to the report. This would mean that Officers will have to be aware of decisions that are coming forward and inform Democratic Services of them at least 28 days in advance of the Cabinet meeting that they intend to take the item to. In practice, looking how far in advance decisions were scheduled in the former Forward Plan this should not be an onerous task.

3.2 The alternative would be a “live” document (without “fixed” publication dates). The major disadvantage of a live document is that the audit trail is much less effective; as there is only ever one plan available on the Council’s website and it would be much harder for the public and Overview and Scrutiny Committee to keep track of items. The current committee document management system (modern.gov) can produce a rudimentary live document; however this is not capable of being printed off as a “plan”. Democratic Services would recommend against using a “live” document until Modern.gov release their updated software as described in more detail in paragraph 3.13 below.

3.3 **Recommendation:** That the Council publish a document as outlined at paragraph 3.1 of the report.

3.4 **Recommendation:** The document will show future key decisions for the a one year period

3.5 **Recommendation:** The document will be published exactly 28 clear days in advance of scheduled Cabinet meetings.

3.6 Although the legislation only requires key decisions to be included, the document will include non-key decisions as well as key decisions. There are benefits though of including non-key decisions, among them it informs both the public and the Overview and Scrutiny Panel of decisions that may be important but are not classed as key. Also by including non key decisions - as will be seen later in the report at paragraph 5.1 – it would simplify the process of notifying the public of decision that are to be taken in private. If non-key decisions were not included in the document, then Democratic Services would not be able to combine the document and the list of exempt Cabinet decisions, which would significantly reduce efficiency.



- 3.7 **Recommendation:** The document will contain non-key as well as key decisions.
- 3.8 The new document will also have to include details of the Councils address and the process for obtaining any of the documents that are referenced in the document. In addition the document should also state that additional documents may be submitted to the decision maker and if so how those documents would be made available to the public. This information used to be provided in the annual newspaper advertisement required under the old Regulations, but an advertisement is not required under the new legislation.
- 3.9 It is proposed that the document be called “The Forward Plan and Exempt Cabinet Report List” as this retains the name Forward Plan which many people are familiar with and the new document still retains many similar features to the old Forward Plan. The exempt cabinet report list will be explained later in the report at paragraph 4.1.
- 3.10 **Recommendation:** The document will be titled: “The Forward Plan and Exempt Cabinet Report List”.
- 3.11 As mentioned in paragraph 2.4 above, the new legislation does not allow for the existing practice of entering “not before a certain date”. Officers will have to specify a date, or a “decision by date” when entering items on the “Forward Plan and Exempt Cabinet Report List”. By entering a “decision by date” it creates a period of time from the date the item is published in the Forward Plan and Exempt Cabinet Report List and the “decision by date” and fulfilling the requirement of the regulations.
- 3.12 An example of what the new “Forward Plan and Exempt Cabinet Report List” would look like is attached at Annex 2 to the report. It has been necessary to remove the consultees and consultation columns from this printed document in order to fit the new exempt information column. Under the new regulations neither consultees or consultation has to be included in the “Forward Plan”, however they will remain on the online version of the “Forward Plan and Exempt Cabinet Report List.
- 3.13 The “Forward Plan and Exempt Cabinet Report List” as described in this section of the report inclusive of the options outlined, will continue to be published through the existing Modern.gov system.
- 3.14 It is worth noting that Modern.gov is currently developing a new way of publishing the Forward Plan which accommodates the requirements of the new Regulations. It is understood that these developments are quite radical and may allow alternative ways of complying with the new Regulations in future. Once the new version has been released and evaluated by Democratic Services, options will be brought to SMT and then to CRWP and Standards.

#### **4.0 Cabinet meetings when exempt information is to be considered**

- 4.1 New rules now apply ahead of any Executive meeting that considers a report that contains exempt information. The Council must now publish a notice, both on its website and at its offices, 28 days in advance of a Cabinet meeting where an exempt report or an exempt part of a report (for example an exempt annex) is to be considered.
- 4.2 Under the previous rules Cabinet could have elected to meet wholly in private without any exclusion of the public. TDC however never elected to utilise this rule. Under the new rules if TDC wished to hold a wholly private meeting of the Cabinet (not a meeting considering exempt information) it would also have to give the same 28 days notice.

- 4.3 The notice referred to in paragraphs 4.1 and 4.2 must give the public the ability to make specific representations to the Council explaining why they believe that the meeting should be held, or the report should be considered, in public.
- 4.4 An additional notice must also be published at least five clear (working) days in advance of the meeting setting out any representations have been received from the public together with the response of the Leader as to why the item or meeting would continue to be held in private or excluding the public. It is only proposed to publish a notice if the Council receives any representations.
- 4.5 Where it isn't possible to follow the timescales set out in these procedures, then the meeting can only go ahead if the Chairman of the Overview and Scrutiny Panel has agreed that the meeting is urgent and cannot be deferred. In addition a notice must also be published on the council's website and made available at the Council's offices giving the reasons why the meeting is urgent and cannot be deferred in order to comply with the legislation.
- 4.6 In addition, when Democratic Services include the Schedule 12A of the Local Government Act 1972 paragraph number when exempting reports the new legislation also states that the actual reason as well as the paragraph number must also be included
- 5.0 Proposals for procedures prior to Cabinet meetings when exempt information is to be considered**
- 5.1 SMT recommend that the notice giving 28 days notice of a meeting that might contain exempt information is combined with the "Forward Plan and Exempt Cabinet Report List" by the addition of a column to include the required information as shown in Annex 2. This would mean that the members of the public would only have to look in one place for information rather than two and it would also reduce workloads for Democratic Services as only one document would need to be produced. It would however mean that non-key decisions going to Cabinet that were based on confidential reports would need to be included in the new Forward Plan. This would marginally reduce flexibility; however confidential non-key decisions occur infrequently. In addition not combing the two documents would seriously impact the way that Democratic Services work and would push some of these notifications out of the Modern.gov system.
- 5.2 **Recommendation:** The statement that needs to be produced giving 28 days notice of confidential items being discussed at Cabinet is added to the "Forward Plan and Exempt Cabinet Report List".
- 5.3 In practice there are a number of ways the Leader may consider any representations that may be received regarding requests to hear items in public rather than private. However the most practical option is that the Leader delegates power to the Monitoring Officer, in consultation with the Leader, to decide on a response to any representations received.
- 5.4 **Recommendation:** That the Leader delegates power to the Monitoring Officer, in consultation with the Leader, to decide on a response to any representations received, based on the information as captured on the report proforma.
- 5.5 The Council's constitution will also have to be amended to allow for the Leader in conjunction with the Monitoring Officer to consider requests to hold meetings in public where confidential items are due to be discussed and to include the exemption rules

for when timescales cannot be followed regarding the 28 day notice period for confidential items.

- 5.6 The Council will also have to publish the representations from the public requesting a meeting is held in public together with the responses mentioned above in paragraphs 4.1, 4.2 and 5.1. The legislation says we must publish the responses to the representations at least five clear (working) days in advance of the meeting; however there is no mention how far in advance of the meeting we have to stop accepting representations. It is proposed that the public have 14 calendar days to give representations, this would leave seven calendar days for the Leader in consultation with the Monitoring Officer to consider them and then these would be published on the Council's website through the Modern.gov system five clear (working) days in advance of the meeting.
- 5.7 **Recommendation:** The timescales for allowing representations as outlined in paragraph 5.6 are agreed.
- 5.8 Democratic Services are currently investigating when the Modern.gov system will be capable of including the description of the Schedule 12A reason as well as the number. First indications that at the least the reasons for exemptions will be displayed on the Councils website as they currently are for agenda items.

## **6.0 General Exceptions and Special Urgency Provisions**

- 6.1 The General Exceptions rules for when a key decision is not published in accordance with the rules as outlined in paragraph 2.3 is that the proper officer must inform the Overview and Scrutiny Panel chairman and then give five clear (working) days before the decision can be made. Once the Overview and Scrutiny Chairman has been informed a notice stating the reasons why 28 days notice could not be given must be made available at the Councils offices and published on the Councils website.
- 6.2 In cases of special urgency when a decision is so urgent that it must be taken at less than (working) clear days notice the decision maker must obtain agreement from the chairman of the Overview and Scrutiny Panel that the decision is urgent and cannot be deferred. Once that agreement has been obtained the decision maker must then prepare a notice stating the reasons why decision is urgent and could not be deferred and that notice must be made available at the Councils offices and published on the Councils website.
- 6.3 It is worth noting both the general exception and special urgency rules as outlined above replaces the existing general exception and special urgency rules contained within the Council's constitution. However both of the new rules are virtually the same as the old ones, the only change being that the notice as described in paragraph 6.2 must be published on the Council's website. In addition the Council already has separate rules on exempting decisions from Call-In and these are detailed within the Council's Overview and Scrutiny Procedure Rules.
- 6.4 In addition Democratic Services currently reports to Full Council each quarter how many decisions it takes under the current urgency rules. Under the new rules the Council has the ability to determine how often this report is presented to Full Council, the only limitation being that it must be done at least annually.

## **7.0 Proposals for revised General Exceptions and Special Urgency Provisions**

7.1 Both notices of general exception and special urgency must be published on the Council's website and investigations are currently underway with Modern.gov as to how to do so. Discussions with Modern.gov indicate that they are developing a system that will enable these notices to be published, even before the agenda is published.

7.2 **Recommendation:** That the Council amend its new exemption and special urgency procedures as outlined in Section 6 of the report and that Council remain updated on the number of decisions made under the special urgency provisions on a quarterly basis.

## **8.0 Officer decisions notices**

8.1 In the past only Key decisions taken by officers have had to be accompanied by a decision notice. One of the most significant new requirements of the regulations is that as soon as reasonably practicable after an officer has made a decision which is an executive decision (For these purposes "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive), an officer must produce a written statement. The statement must include; a record of the decision including the date it was made, a record of the reasons for the decision, details of any alternative options considered and rejected by the officer when making a the decision; a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision and in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority Head of Paid Service.

## **9.0 Changes to procedures regarding officer decision notices**

9.1 This is potentially the biggest change of all those included in the new regulations. In its most literal interpretation this means any decision that has been delegated to any officer regarding an Executive matter must be accompanied by a decision notice, which must be published on the Council's website and made available at the Gateway. Guidance on this issue has been issued by the Department for Communities and Local Government (DCLG) in a letter to the Association of Solicitors and Secretaries which explains that this requirement only applies to direct delegations to Officers that relate to an Executive Function.

9.2 SMT are seeking full compliance with this requirement as per the advice from the DCLG. Meetings will be held between Democratic Services and Directorates to explain the implications of this new regulation to senior officers.

9.3 Democratic Services have started to investigate what such a decision notice would look like and have created a draft notice which is attached at Annex 3 to this report.

9.4 Democratic Services will keep a close eye on further developments regarding this particular part of the regulations and for any further guidance from the DCLG.

## **10.0 Rights to access documents for Councillors and Members of the Overview and Scrutiny Panel**

10.1 The new rules also give a wider right for both Councillors and Members of the Overview and Scrutiny Panel to access documents in the possession of, or under the control of the Cabinet or that have been considered at Cabinet meetings or a private Cabinet meeting. The rules also retain the existing practice of publishing all

documents considered by a Cabinet Member when taking an individual Cabinet decision as soon as that decision is made.

- 10.2 Under the new rules all Councillors must be able to inspect all Cabinet papers at least five clear (working) days in advance of the meeting, (or as soon as the agenda is published if it were a late item). Also, when an Executive decision is made by an officer or an individual Cabinet Member, all reports and background papers used by the officer or Cabinet Member when taking that decision must be available to Members within 24 hours of the decision being taken. However Members are not allowed access to documents if they are exempt under Part 1 of Schedule 12A of the Local Government Act 1972. However, if the item is exempt under paragraph 6 of Part 1 of Schedule 12A or paragraph 3 of Part 1 of Schedule 12A (except for information regarding negotiations relating to a contract) then the information must be released to the Member.
- 10.3 The new rules now state that when a Member of the Overview and Scrutiny Panel requests a document that contains information that relates to a Cabinet Decision, a decision made by an Individual Cabinet Member or by an officer, that document must be provided to them within 10 working days of the request. If the Cabinet denies the request for a document or a part of a document, then it must provide a written statement to the Overview and Scrutiny Panel setting out the reasons for why they are not entitled.
- 10.4 However Members of the Overview and Scrutiny Panel when requesting documents as explained in paragraph 10.3 above are not entitled to a document that contains exempt or confidential information, unless it relates to a matter that that Member is reviewing or scrutinising, or to a review contained in any programme of work of the Panel or its Working Parties.

## **11.0 Changes to procedures regarding rights to access documents for Councillors and Members of the Overview and Scrutiny Panel**

- 11.1 The Council already complies with a number of the provisions set out in the new rules; in particular Democratic Services already supply all Councillors with copies of Cabinet papers at least five clear working days in advance of the meeting. Democratic Services also publish reports as soon as possible after an individual Cabinet Member decision is taken.
- 11.2 It is proposed that in order to comply with the new rules Democratic Services will have to publish all reports and background papers within 24 hours of a decision being made. This would have to be interpreted as 24 hours spread over calendar days as it would make decision making on a Friday an extremely challenging task.
- 11.3 The legislation however is not specific as to how the written statement of refusal to a request for a document from a Member of the Overview and Scrutiny Panel must be presented to the Overview and Scrutiny Panel.
- 11.4 **Recommendation:** That when a refusal to a request for a document from a Member of the Overview and Scrutiny Panel takes place, the Cabinet Leader in conjunction with the Monitoring Officer will write to all of the Members of the Overview and Scrutiny Panel.

## **12.0 Background Papers**

- 12.1 The new rules now mean that the Proper Officer has a duty to ensure that a copy of every background document that is listed in a Cabinet report (including those written

for Individual Cabinet Member decisions) is made available for public inspection at the offices of the Council and published on the Council's website. This means that the guidance for the report template would need to be amended.

- 12.2 It is important to note the definition of "background documents" as this could potentially be quite a time consuming task. "Background document" in relation to a report, means those documents that relate to the subject matter of the report and in the opinion of the proper officer disclose any facts on which the report or an important part of the report is based and were relied on to a material extent in preparing the report.

### **13.0 Changes to procedures regarding background documents**

- 13.1 There is a necessity in light of the new rules to look again at the issue of background papers. The definition of background papers doesn't include any previously published document; this reduces the number documents that officers can include as background papers in reports. Officers should be thinking more creatively about the way reports are written and how documents are referenced. This could include referencing within reports, the increased use of hyperlinks within documents and understanding that there is no need to include documents that have been published elsewhere.
- 13.2 If officers feel that they should include background documents then Democratic Services would have to be provided with electronic copies of them when they are sent the reports. Democratic Services can then easily publish the background documents through the Modern.gov system.

### **14.0 Attending the Cabinet and facilities for recording meetings**

- 14.1 The new rules require of the Council that any person who is attending the meeting for the purposes of reporting the proceedings is, so far as is practicable, to be afforded reasonable facilities for taking their report.
- 14.2 The definition of "any person who is attending the meeting for the purposes of reporting the proceedings" is currently unclear. There has been a press release from the DCLG that refers to the legislation allowing members of the public to report proceedings; however the regulations do not support this position. In fact there is a clause included in the legislation that states that nothing in the regulations requires a decision making body to permit the taking of photographs or audio or video recording of a meeting.

### **15.0 Changes to procedures about the recording of meetings**

- 15.1 The Council's existing procedure, although not stated within the constitution, but widely practised (and read out at Full Council meetings) already allows for blogging, tweeting and accessing the internet during meetings, but not the use of mobile phones to make calls. Nor does it permit video recording. As seen above the new legislation requires us to give reasonable facilities for the taking of reports but not photography or video recording. It could be strongly argued that the current practice already complies with the new Regulations.
- 15.2 Elsewhere on this agenda the issue of using mobile phones and laptops will be discussed.
- 15.3 The issue of recording of meetings was recently the subject of a notice of motion at Full Council, this report gives the Constitutional Review Working Party the opportunity

to formulise the points of view that were stated at that meeting i.e. that the restriction on the recording of meetings should be retained, by including them in the Council's constitution.

- 15.4 **Recommendation:** That the views of the Constitutional Review Working Party are sought on whether to include in the Council's constitution a formal restriction on the video recording of Council meetings.

## **16.0 Dispensations by the Head of Paid Service**

- 16.1 Currently when a Cabinet Member takes a decision, they can apply for a dispensation (a dispensation is applied for when a Member has an interest in an item that is under discussion, so significant it would prevent them commenting or voting on that item. There are very proscribed rules in giving exemptions and these are outlined in the Councils constitution) from the Standards Committee if needed, if they have a conflict of interest. Under these new Regulations the ability to apply for a dispensation remains, however the Councillor must apply to the Head of Paid Service instead of the Standards Committee. Therefore the Council needs to make arrangements for the Head of Paid Service to consider the granting of dispensations when Cabinet Members are making decisions and when individual Cabinet Members are being consulted by officers over a decision being taken by either an officer or another Cabinet.

- 16.2 Under these new rules exemptions should only be given in extraordinary circumstances based on the individual facts in each case, as there should be a presumption not to consult with a Member who has a disclosable pecuniary interest (DPI) because if that Member was the decision taker they wouldn't be able to take the decision because of the DPI. It should also be the case that if a member who was consulted on a decision did not apply for an exemption if needed then that Member would be considered to have breached the Members code of conduct.

- 16.3 **Recommendation:** That the Head of Paid Service grants dispensations to Executive Members in consultation with the Council's Monitoring Officer?

## **17.0 Reports to the Local Authority where the key decision procedure has not been followed.**

- 17.1 There is a new regulation that gives the Overview and Scrutiny Panel the ability to require the Cabinet to submit a report to Council when a non key decision has been taken that the Panel feels should have been a key decision. This rule extends to any executive decision and includes those made by Cabinet, individual Cabinet Members or Officers.

- 17.2 The report must include the decision and details of the decision, the decision maker taking the decision and if the Cabinet are of the opinion that the decision was not a key decision the reasons for that opinion.

- 17.3 This could potentially have an impact on the work of the Council as Overview and Scrutiny will be able to effectively call to Council any non-key executive decision taken by anyone that they felt should have been key.

- 17.4 **Recommendation:** That the Council's constitution is amended to give the Overview and Scrutiny Panel the power to require the Cabinet to submit a report to Council when a non key decision has been taken that the Panel feels should have been a key decision.

## **18.0 Joint committees**

18.1 All of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 relate to joint committees of Cabinet Members between different authorities. This would include the East Kent Joint Arrangements Committee or its successor.

## **19.0 Punishable Offences for obstruction of the regulations**

19.1 It must be noted by SMT that a new offence has been introduced in the legislation that is punishable by a level 1 fine (up to £200).

19.2 A person who has custody of a document which is required by Regulation 7, 14 or 15 (agendas, decision notices or background papers) to be available for inspection by members of the public, commits an offence if without reasonable excuse, that person:–

a) intentionally obstructs any person exercising a right conferred under the regulations to inspect or make a copy of the whole or part of a document, or:

b) refuses to supply a copy of the whole or part of the document in accordance with the regulations.

## **20.0 Changes to the Constitution**

20.1 This report contains a number of changes that need to be documented in the Council's constitution. All of these are included in Annex 4 which shows a track changed version of the Council's current Access to Information Rules, showing how the Constitution must be amended.

20.2 If the CRWP makes any amendments to any of the recommendations outlined within the report then changes will need to be made to Annex 4 to reflect these before the report is submitted to the Standards Committee.

## **21.0 Corporate Implications**

### **21.1 Financial and VAT**

21.1.1 There are no financial implications.

### **21.2 Legal**

21.2.1 The Council must follow these new regulations as they are the law. The interpretation of the law may change in the future as more clarification and guidance is received from the DCLG.

### **21.3 Corporate**

21.3.1 There is a level of corporate risk involved with not complying with all of the legislative requirements outlined in the report.

### **21.4 Equity and Equalities**

21.4.1 There are no equity or equalities implications.



## 22.0 Recommendation(s)

22.1 That:

- a) The Constitutional Review Working Party makes the following summary of recommendations to the Standards Committee:
  - i). **Recommendation:** That the Council publish a document as outlined at paragraph 3.1 of the report.
  - ii). **Recommendation:** The document will show future key decisions for the a one year period
  - iii). **Recommendation:** The document will be published exactly 28 clear days in advance of scheduled Cabinet meetings.
  - iv). **Recommendation:** The document should contain non-key as well as key decisions.
  - v). **Recommendation:** The document will be titled: “The Forward Plan and Exempt Cabinet Report List”.
  - vi). **Recommendation:** The statement that needs to be produced giving 28 days notice of confidential items being discussed at Cabinet is added to the “Forward Plan and Exempt Cabinet Report List”.
  - vii) **Recommendation:** That the Leader delegates power to the Monitoring Officer, in consultation with the Leader, to decide on a response to any representations received, based on the information as captured on the report proforma.
  - viii) **Recommendation:** The timescales for allowing representations as outlined in paragraph 5.6 are agreed.
  - ix) **Recommendation:** That the Council amend its new exemption and special urgency procedures as outlined in Section 6 of the report and that Council remain updated on the number of decisions made under the special urgency provisions on a quarterly basis.
  - x) **Recommendation:** That when a refusal to a request for a document from a Member of the Overview and Scrutiny Panel takes place, the Cabinet Leader in conjunction with the Monitoring Officer will write to all of the Members of the Overview and Scrutiny Panel.
  - xi) **Recommendation:** That the views of the Constitutional Review Working Party are sought on whether to include in the Council’s constitution a formal restriction on the video recording of Council meetings.
  - xii) **Recommendation:** That the Head of Paid Service grants dispensations to Executive Members in consultation with the Council’s Monitoring Officer?
  - xiii) **Recommendation:** That the Council’s constitution is amended to give the Overview and Scrutiny Panel the power to require the Cabinet to submit a report to Council when a non key decision has been taken that the Panel feels should have been a key decision.
- b) That the Council’s Constitution be amended as at Annex 4 to reflect these changes.

### 23.0 Decision Making Process

23.1 Elements of this paper are decisions that have to go to Council.

23.2

Future Meeting if applicable: Standards Committee Council	Date: 7 November 2012 6 December 2012
---	---

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager
Reporting to:	Harvey Patterson, Corporate and Regulatory Services Manager

### Annex List

Annex 1	List of forward plan and exempt Cabinet report list publication dates
Annex 2	Proposed example of forward plan and exempt Cabinet report list
Annex 3	Draft officer decision notice
Annex 4	Amended Access to Information Rules with track changes.

### Background Papers

Title	Details of where to access copy
<i>None</i>	

### Corporate Consultation Undertaken

Finance	Matthew Sanham, Finance Manager (Service Support)
Legal	Harvey Patterson, Corporate and Regulatory Services Manager

# Agenda Item 5 Annex 1

## List of forward plan and exempt Cabinet report list publication dates

<b>Cabinet Date</b>	<b>Date of forward plan and exempt Cabinet report list</b>
8 November 2012	10 October 2012
22 January 2013	24 December 2013
28 March 2013	28 February 2013
2 May 2013	3 April 2013
20 June 2013	22 May 2013
1 August 2013	3 July 2013
12 September 2013	14 August 2013
14 November 2013	16 October 2013

This page is intentionally left blank



**FORWARD PLAN AND EXEMPT CABINET REPORT LIST**

**8 NOVEMBER 2012 TO 2 MAY 2013**

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires the Council to give 28 clear days’ notice of any key decision and of any reports which the Cabinet intends to consider in private session.

**Key Decisions**

A key decision is an executive decision (taken by Cabinet or by officers on Cabinet’s behalf) that is likely:

- a) To result in the Council spending or saving significantly against the Council’s budget; or
- b) To be significant in terms of the effect on communities living or working in the district, in an area comprising two or more wards. However, decisions that impact on communities living or working in one ward will be treated as “key” if the impact is likely to be very significant

To help clarify what should be included as a key decision in this document, Thanet District Council has set the following thresholds:

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

If an executive decision does not fall into any of the above categories, it is included as non-key. Thanet District Council also includes in its published Forward Plan and Exempt Cabinet Report List decisions affecting Policy Framework and Budget Setting. Other Council decisions may also be included if they have a significant impact on communities. In such cases, the decision type will be denoted as “other”.

### **Reports to be Considered in Private Session**

The second last column of the Plan indicates where a report is likely to contain exempt information and may result in the public and press being asked to leave the meeting for the consideration of the whole or part of the item.

If you wish to make any representations relating to a proposal to hold part of a meeting in private due to the potential disclosure of exempt information, please contact Democratic Services, PO Box 9, Cecil Street, Margate, Kent CT9 1XZ, [Committee@thanet.gov.uk](mailto:Committee@thanet.gov.uk), telephone number 01843 577200 at least 14 calendar days in advance of the date of the Cabinet meeting.

At least five clear (working) days before the meeting, the Council will publish on its website a notice giving details of representations received about why the meeting should be open to the public and a statement of its response.

The Plan represents a snapshot of decisions in the system as at the date of publication. It is updated 28 clear days before each meeting of Cabinet. The Plan is available for inspection free of charge at Thanet Gateway Plus, Cecil Street, Margate, Kent CT9 1RE.

### **Availability of Documents**

Subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Plan will be available from Thanet Gateway Plus, Cecil Street, Margate, Kent CT9 1RE. Other documents relevant to those matters may be submitted to the decision makers; if that is the case, details of the documents as they become available can be requested by telephoning Democratic Services on 01843 577500 or by emailing [committee@thanet.gov.uk](mailto:committee@thanet.gov.uk).

The documents listed in the Plan will be published on the Council's website at least five clear (working) days before the decision date. Other documents will be published at the same time or as soon as they become available.

The Cabinet comprises the following Members who have responsibility for the portfolio areas shown:

Councillor Clive Hart

Leader of the Council and Cabinet Member for Corporate Regulatory and Strategic Economic Development Services

Councillor Alan Poole

Deputy Leader of the Council and Cabinet Member for Commercial Services

Councillor Iris Johnston

Cabinet Member for Community Services

Councillor David Green

Cabinet Member for Housing and Planning

Councillor Michelle Fenner

Cabinet Member for Business Services

Councillor Rick Everitt

Cabinet Member for Financial Services

## 8 November 2012 to 2 May 2013

Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
XXXXX	YYY	1. Cabinet 2. Philip Hamberger, Director of Corporate Services and Transformation	Councillor Clive Hart, Leader of the Council and Cabinet Member for Corporate Regulatory and Strategic Economic Development Services	8 Nov 12	Key	Part of this report is exempt from disclosure on the grounds that it contains information relating to an individual under Paragraph 1 of Schedule 12A of the Local Government Act 1972 and, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.	Cabinet Report

Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
Tenancy Strategy	Develop a Tenancy Strategy for Thanet	1.Cabinet  Cabinet  Council 2.Craig George, Housing Services Manager Tel: 01843 577220	Councillor David Green, Cabinet Member for Housing and Planning	8 Nov 12  22 Jan 13  28 Feb 13	Key		Tenancy Strategy
Localisation of Council Tax Discount Scheme	To approve a localised Council Tax Discount Scheme	1.Cabinet  Council 2.Sarah Martin, Financial Services Manager and Deputy S.151 Officer Tel: 01843 577617	Cabinet Member for Financial Services, Cabinet Member for Business Services	8 Nov 12  6 Dec 12	Key		Report to Cabinet
2012-2013 Report on progress against Corporate Plan	Report No. 1 on progress against the Corporate Plan 2012-2016	1.Cabinet 2.Adrian Halse, Policy and Business Planning Manager	Councillor Michelle Fenner, Cabinet Member for Business Services	8 Nov 12	Non-Key		Cabinet report
Risk Management Strategy	Corporate document reviewed and updated as necessary	1.Cabinet 2.Nikki Morris, Business Support & Compliance Manager	Councillor Michelle Fenner, Cabinet Member for Business Services	8 Nov 12	Non-Key		Cabinet Report Risk Management Strategy



Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
Refresh of Kent Joint Waste Management Strategy	That the Council formally adopts changes made to the joint waste management strategy since its original adoption. The main aims of the strategy are not significantly affected by the refresh.	1.Cabinet  Council 2.Mark Seed, Director of Operations Tel: 01843 577742	Councillor Alan Poole, Deputy Leader of the Council and Cabinet Member for Commercial Services	8 Nov 12  6 Dec 12	PFP		Draft of refreshed strategy and covering report
Budget Monitoring	Update on latest budget monitoring position	1.Cabinet  Cabinet 2.Sarah Martin, Financial Services Manager and Deputy S.151 Officer Tel: 01843 577617	Councillor Rick Everitt, Cabinet Member for Financial Services	8 Nov 12  22 Jan 13	Non-Key		Cabinet Report
The determination of the Gambling Policy statement for the next three years	Compliance with the 2005 Gambling Act in reviewing the Policy every three years	1.Cabinet  Council 2.Phil Bensted, Regulatory Services Manager	Councillor Clive Hart, Leader of the Council and Cabinet Member for Corporate Regulatory and Strategic Economic Development Services	8 Nov 12  6 Dec 12	Policy Framework		Report

Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
Draft budget proposals	Will outline budget strategy and the draft budget figures. The final report will also include the treasury management strategy.	1.Cabinet  Cabinet  Council 2.Sarah Martin, Financial Services Manager and Deputy S.151 Officer Tel: 01843 577617	Councillor Rick Everitt, Cabinet Member for Financial Services	8 Nov 12  22 Jan 13  7 Feb 13	Budget setting		Budget working papers
Design for Future Climate Change	Accept Recommendations from Consultants	1.Cabinet  Council 2.Rob Hetherington, Economic Development and Regeneration Manager	Councillor Mrs Iris Johnston, Cabinet Member for Community Services	Not before 1st Nov 12  Not before 6th Dec 12	Key		Bid Document Agreement with the Technology Strategy Board
Excellent Homes for All (EHFA) - Signing of the Project Agreement, Back to Back Agreement and Risk Sharing	The delivery of supported housing schemes in Kent to include extra care and mental health accommodation in Thanet	1.Cabinet 2.Craig George, Housing Services Manager Tel: 01843 577220	Councillor David Green, Cabinet Member for Housing and Planning	Not before 1st Dec 12	Key		Project Agreement and Back to Back Agreement

Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
Approval of Economic Development Strategy	An adoption of Economic Development Strategy	1.Cabinet 2.Rob Hetherington, Economic Development and Regeneration Manager	Councillor Clive Hart, Leader of the Council and Cabinet Member for Corporate Regulatory and Strategic Economic Development Services	Not before 1st Dec 12	Key		Final Strategy
Housing Strategy	To agree final document based on consultation response.	1.Cabinet Council 2.Madeline Homer, Director of Community Services Tel: 01843 577123	Councillor David Green, Cabinet Member for Housing and Planning	22 Jan 13 7 Feb 13	Key		Strategy
Thanet Parking Policy 2013-14	Policy on parking issues in Thanet, including fees and charges for 2013-2014	1.Cabinet 2.Mark Seed, Director of Operations Tel: 01843 577742	Councillor Alan Poole, Deputy Leader of the Council and Cabinet Member for Commercial Services	22 Jan 13	Key		The Big Parking Review Summary Parking Policy 2012-2013

Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
Community Right to Bid (Assets of Community Value) - Localism Act 2011	Having a process for determining an asset of community value	1.Cabinet 2.Janice Wason, Community Development Manager, Robin Haves, Property Manager	Deputy Leader of the Council and Cabinet Member for Commercial Services, Cabinet Member for Community Services	Not before 1st Jan 13	Key		Cabinet Report
Local authority mortgage scheme	If approved, the council will enter into the Kent-wide mortgage scheme	1.Cabinet  Council 2.Sarah Martin, Financial Services Manager and Deputy S.151 Officer Tel: 01843 577617	Councillor David Green, Cabinet Member for Housing and Planning	Before 1 Feb 13  Before 1 Mar 13	Key		Copies of documentation from lender and sector
Allocation Policy	An updated lettings policy for affordable housing adopted for the Thanet district, which includes local lettings plans for specific sites, including tower blocks	1.Cabinet  Council 2.Victoria May, Housing Options Manager	Councillor David Green, Cabinet Member for Housing and Planning	28 Mar 13  18 Apr 13	Key		Draft policy
Revised Procurement Strategy	Revised Procurement Strategy adopted	1.Cabinet 2.Karen Paton, Strategic Procurement Manager	Councillor Michelle Fenner, Cabinet Member for Business Services	28 Mar 13	Non-Key		Cabinet Report and Strategy Document

Key Decision to be Considered	What the Decision will mean	1. Decision Path/ 2. Lead Officer	Lead Cabinet Member	For Decision by	Decision Type	Details of any exempt information to be considered when the decision is taken	Documents submitted to the Decision Maker
2012-2013 Further report on progress against Corporate Plan	Report No. 2 on progress against the Corporate Plan 2012-2016	1.Cabinet 2.Adrian Halse, Policy and Business Planning Manager	Councillor Michelle Fenner, Cabinet Member for Business Services	28 Mar 13	Non-Key		Cabinet report
Port Master Plan	Establish the Ramsgate Port & Harbour Master plan Cabinet Advisory Group to provide some steer for the development of the Port Master plan  Development, consultation and adoption of a Port Master Plan	1.Cabinet 2.Mark Seed, Director of Operations Tel: 01843 577742	Councillor Alan Poole, Deputy Leader of the Council and Cabinet Member for Commercial Services	28 Mar 13	Key		Draft Master Plan
A Disabled Facilities Grant (DFG) Policy	We will have a clear approach to DFG delivery	1.Cabinet 2.Tanya Wenham, Housing Regeneration Manager	Councillor David Green, Cabinet Member for Housing and Planning	2 May 13	Key		Cabinet Report and Policy Document
Asset Management Strategy	10 May 2012: Proposed adoption of the Interim Asset Disposal Plan 2012-13 Before 1 January 2014: Produce 2014-18 Asset Management Strategy / Plan	1.Cabinet  Cabinet 2.Mark Seed, Director of Operations Tel: 01843 577742	Cabinet Member for Community Services, Deputy Leader of the Council and Cabinet Member for Commercial Services	10 May 12  Not before 1st Jan 14	Key		Existing Asset Management Strategy 2007-2011 and its performance (Rejected 2011) Interim report to Cabinet

This page is intentionally left blank

**THANET DISTRICT COUNCIL**

**RECORD OF OFFICER DECISION**

Name of Officer:

Directorate:

Relevant Portfolio Holder:

Date of Decision:

Subject of decision:

Officer Delegation Ref:

Decision made:

Alternative options considered and why they were rejected when the decision was made:

Details of any conflict of interest declared by any executive Member who has been consulted by the officer making the decision and of any dispensation granted to that executive Members by the Head of Paid Service:

Please attach any report considered when making the decision (if applicable):

This page is intentionally left blank



# Access to Information Procedure Rules

## 1.0 Scope

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, area Committees (if any), the Standards Committee and regulatory and other Committees and meetings of the Cabinet (together called meetings). Where additional rules that apply only to Cabinet are included, they are clearly marked as such.

## 2.0 Additional Rights to Information

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, including the Freedom of Information Act 2000

## 3.0 Rights to Attend Meetings

Members of the public may attend all meetings subject only to the exceptions in these rules.

## 4.0 Notices of Meeting

Unless the Meeting is called at shorter notice, the Council will give at least five clear working days notice of any meeting by posting details of the meeting on its website and at the Council's main offices in Cecil Street, Margate, Thanet Gateway Plus, Cecil Street, Margate, Kent CT9 1RE (the designated office).

## 5.0 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting except that:

- a) where the meeting is convened at shorter notice, copies of the agenda and report shall be published on the Council's website and open to inspection from the time the meeting is convened; and
- b) where an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public and publish it on the Council's website as soon as the report is completed and sent to Councillors) will be published on the Council's website and open to inspection ~~for~~ from the time the item was added to the agenda.

## 6.0 Items of Business

### 6.1 An item of business may not be considered at a meeting unless either:

- a) a copy of the agenda including the item (or a copy of the item) is published on the Council's website and open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or

- b) by reason of special circumstances, which shall be specified in the minutes, the Chairman of the mMeeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

**6.2** “Special circumstances” justifying an item being considered as a matter of urgency will relate to both why the decision could not be made by calling a mMeeting allowing the proper time for inspection as well as why the item or report could not have been available for five clear days before the meeting.

**6.3** Where the item of business relates to a Key Decision, Rules 165, 176 and 187 also apply.

## **7.0 Supply of Copies**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the ~~Corporate Programme Manager or~~ Democratic Services Manager thinks fit, any other documents supplied to Councillors in connection with an item

to any person on payment of a charge for postage and any other costs or electronically at no charge.

A reasonable number of copies of the agenda and reports will be made available at the meeting.

## **8.0 Access to Minutes etc After the Meeting**

The Council will make available for public inspection copies of the following documents for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for ~~\_all meetings of the~~ Cabinet decisions, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## **9.0 Background Papers**

### **9.1 List of background papers**

The proper officer will set out in every report that is open to public inspection a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential

information (as defined in Rule 110) and in respect of Cabinet reports, the advice of a political ~~advisor~~assistant.

**9.2 Public inspection of background papers**

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

As far as Cabinet decisions are concerned, the Council will also publish on its website any background papers that are included in the list.

**10.0 Public’s Rights**

A copy of the Access to Information Procedure Rules, which sets out the public’s rights to attend meetings and to inspect and copy documents, shall be kept at and available to the public at the Council’s main offices for inspection. A member of the public shall be entitled to a copy of these Rules on request.

**11.0 Exclusion of Access by the Public to Meetings**

**11.1 Confidential information – requirement to exclude public**

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

**11.2 Exempt information – discretion to exclude public**

Subject to Article 6 of the Human Rights Act 1998 (right to a fair trial) the public may be excluded from ~~m~~Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Any resolution to exclude the public due to disclosure of exempt information must identify the proceedings, or the part of the proceedings to which it applies, and state, by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (access to information: exempt information), the description of exempt information giving rise to the exclusion of the public.

**11.3 Meaning of confidential information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

**11.4 Meaning of exempt information**

Exempt information means information falling within the following 7 categories (subject to any condition):

N.B. The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended) ~~and the Relevant Authorities (Standards Committees) Regulations 2001.~~

Category	Condition
1. Information relating to any individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

Category	Condition
2. Information that is likely to reveal the identity of an individual.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

Category	Condition
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>a) Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests;</p> <p>b) Information is not exempt if it is required to be registered under:</p> <ul style="list-style-type: none"> <li>• Companies Act 1985;</li> <li>• Friendly Societies Acts 1974 and 1992;</li> <li>• Industrial and Provident Societies Acts 1965 to 1978;</li> <li>• Building Societies Act 1986;</li> <li>• Charities Act 1993.</li> </ul> <p>c) The rights of access by Members are contained in Section 1007 of the 1972 Act.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6. Information which reveals that the authority proposes a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or b) to make an order or direction under any enactment.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest

Category	Condition
	in disclosing the interests.

Information falling within any of the paragraphs above is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**Disclosure by Members**

Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Member or Officer entitled to know it.

**12.0 Exclusion of Access by the Public to Reports**

If the proper officer thinks fit, the Council may exclude access by the public to a report or a part of a report which in his or her opinion relates to ~~items-an item~~ during which, in accordance with Rule 11, the meeting is likely not to be open to the public. ~~Such reports will be marked, in accordance with the law, "Not for publication" together with the category of information likely to be disclosed. Every copy of such report, or part of report, as the case may be, must be marked, "not for publication" and there must be stated on every copy of the whole or the part of the report:~~

- ~~(a) that it contains confidential information; or~~
- ~~(a)(b) by reference to the descriptions in Schedule 12A to the Local Government Act 1972, the description of exempt information by virtue of which the decision-making body discharging the executive function are likely to exclude the public during the item to which the report relates.~~

~~13.0 Application of Rules to the Cabinet~~ **Reporting of proceedings at Cabinet meetings**

~~Rules 14 – 25 apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1 – 12 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.~~

~~While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.~~

**14.0 Procedure prior to a Private Meeting of Cabinet**

~~14.1 Subject to 14.2, a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:~~

- ~~(a) a notice has been published in the Forward Plan and Exempt Cabinet Report List at least 28 clear days before the meeting in question and made available on the council's website and at Thanet Gateway Plus, Cecil Street, Margate. This notice is to include a statement of the reasons why the meeting, or part of the meeting, is held in private;~~
- ~~(b) a further notice will be published on the Council's website and at Thanet Gateway Plus, Cecil Street, Margate at least five clear working days before the meeting; such notice to include:~~

- i. a statement of the reasons for the meeting to be held in private;
- ii. details of any representations received by the Cabinet about why the meeting should be open to the public; and
- iii. a statement of its response to any such representations.

14.2 Where the date by which a Cabinet meeting must be held makes compliance with Rule 14.1 impracticable, the meeting, or part of the meeting, may only be held in private where Cabinet has obtained agreement from:

- a) the Chairman of the relevant Overview and Scrutiny Committee; or
- b) if there is no such person, or if the Chairman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman of Council; or
- c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or of Council, the Vice-Chairman of Council.

#### **154.0 Procedure Before Taking Key Decisions Publicity in connection with key decisions**

Subject to Rule ~~176~~ (general exception) and Rule ~~187~~ (special urgency), a key decision may not be taken unless:

- (a) a notice ~~(called here a forward plan)~~ has been published in the Forward Plan and Exempt Cabinet Report List connection with the matter in question;
- (b) ~~at least 3 clear days have elapsed since the publication of the forward plan; and~~ the notice referred to at sub paragraph (a) has been available for public inspection at least 28 days at Thanet Gateway Plus, Cecil Street, Margate and on the Council's website;
- (c) where the decision is to be taken at a meeting of the Cabinet or its Committees notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

#### **165.0 The Forward Plan and Exempt Cabinet Report List**

##### **15.1 Period of forward plan**

~~Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.~~

##### **165.12 Contents of forward plan and exempt cabinet report list**

The forward plan and exempt cabinet report list will contain matters which ~~the Leader has reason to believe~~ will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of an Executive function ~~during the period covered by the plan.~~ It will provide the following

~~details::describe the following particulars~~details: in so far as the information is available or might reasonably be obtained:

- ~~(a)~~ that a key decision is to be made on behalf of the Council;
- ~~(b)~~ the matter in respect of which a decision is to be made;
- ~~(c)~~ where the decision maker is an individual, his/her name and title, if any and where the decision mtaker is a body, its name and a list of its members~~details of membership~~;
- ~~(d.)~~ the date on which, or the period within which, the decision is to be made~~will be taken~~;
- ~~(e)~~ a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- ~~(f)~~ the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- ~~(g)~~ that other documents relevant to those matters may be submitted to the decision maker;
- ~~(h)~~ the procedure for requesting details of those documents (if any) as they become available.
- ~~(d)~~ the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- ~~(e)~~ the means by which any such consultation is proposed to be undertaken;
- ~~(f)~~ the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- ~~(g)~~ a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan and exempt cabinet report list must be published at least 14 days before the start of the period covered, on the Council's website and at Thanet Gateway at least 28 clear days before a key decision is made.

~~The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

- ~~(a)~~ that key decisions are to be taken on behalf of the Council;
- ~~(b)~~ that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- ~~(c)~~ that the plan will contain details of the key decisions to be made for the four month period following its publication;

- ~~(d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;~~
- ~~(e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;~~
- ~~(f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;~~
- ~~(g) that other documents may be submitted to decision takers;~~
- ~~(h) the procedure for requesting details of documents (if any) as they become available; and~~
- ~~(i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.~~

~~Exempt information need not be included in a forward plan and confidential information cannot be included.~~

~~Where in relation to any matter, the public may be excluded under Rule 11 from the meeting at which the matter is to be discussed, or the documents relating to the decision need not by virtue of Rule 12 to be disclosed to the public, the forward plan and exempt cabinet report list must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.~~

## **176.0 General Exception**

~~17.1 If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 17 (special urgency), the decision may still be taken if: Subject to Rule 18 (special urgency), where the publication of the intention to make a key decision under Rule 16 is impracticable, that decision may only be made:~~

- ~~(a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;~~
- ~~(a) where the proper officer has informed the Chairman of the relevant Overview and Scrutiny Committee, or, if there is no such person, each member of the Overview and Scrutiny Committee by notice in writing, of the matter about which the decision is to be made;~~
- ~~(b) where the proper officer has made available at Thanet Gateway Plus, Cecil Street, Margate for inspection by the public and published on its website a copy of the notice given pursuant to sub-paragraph (a); and~~
- ~~(c) after five clear working days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).~~

~~17.2 Where Rule 17.1 applies to any matter, Rule 16 need not be complied with in relation to that matter.~~

~~17.3 As soon as reasonably practicable after the proper officer has complied with Rule 17.1, he or she must make available at Thanet Gateway Plus, Cecil~~



Street, Margate a notice setting out the reasons why compliance with Rule 16 is impracticable and publish that notice on the Council's website.

- ~~(b) the proper officer has informed the Chairman of a relevant Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;~~
- ~~(c) the proper officer has made copies of that notice available to the public at the offices of the Council; and~~
- ~~(d) at least 3 clear days have elapsed since the proper officer complied with (b) and (c).~~

~~Where such a decision is taken collectively, it must be taken in public.~~

### **187.0 Special Urgency**

~~If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice Chairman will suffice.~~

18.1 Where the date by which a key decision must be made makes compliance with Rule 17 impracticable, the decision may only be made where the decision maker has obtained agreement from

- (a) the Chairman of the Overview and Scrutiny Committee, or
- (b) if there is no such person, or if the chairman of the Overview and Scrutiny Committee is unable to act, the chairman of council; or
- (c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or Council, the Vice-Chairman of Council

that the making of the decision is urgent and cannot reasonably be deferred.

18.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 18.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at Thanet Gateway Plus, Cecil Street, Margate a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

### **187.34 Provision of urgent reports to Ward Members**

18.3.147.1.1—1. In cases where the content of the report on the urgent decision is not exempt within the meaning of Schedule 12A of the Local Government Act 2000, Ward Members will be notified of the decision as soon as the decision is taken;

187.34.2 In cases where the content of the report on the urgent decision is exempt within the meaning of Schedule 12A of the Local Government Act 2000 and that exemption does not relate to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been taken, but without disclosure of the

exempt matters (for example, if the exemption relates to the identification of individual or personal matters, those details will not be disclosed until after the decision has been implemented);

**187.34.3** In cases where the content of the report on the urgent decision is exempt within the meaning of Schedule 12A of the Local Government Act 2000 and that exemption relates to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been implemented.

## **198.0 Report to Council**

### **198.1 When an Overview and Scrutiny Committee can require a report**

Where an executive decision has been made and:

(a) was not treated as being a key decision; and

(b) a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision,

that Overview and Scrutiny Committee may require the executive which is responsible for the decision to submit a report to Council within such reasonable period as the committee may specify.

~~If the Executive and Policy Scrutiny Panel thinks that a key decision has been taken which was not:~~

~~(a) included in the forward plan; or~~

~~(b) the subject of the general exception procedure; or~~

~~(c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Chairman/Vice Chairman of the Council under Rule 16;~~

~~the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies.~~ The power to require a report rests with the Committee, but is also delegated to the proper officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **149.8.2 Cabinet's report to Council**

The Cabinet will prepare a report under Rule 19.1 for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7-5 working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. ~~The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.~~

The report must include details of:

(a) the decision and reasons for the decision;

(b) the decision maker by which the decision was made; and

(c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

### **198.3 Quarterly reports on special urgency decisions**

In any event the Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

The Leader of the Council will submit to the Council quarterly reports containing details of each executive decision taken during the period since the last report was submitted to the council where the making of the decision was agreed as urgent in accordance with Rule 18 (special urgency).

### **2019.0 Recording of executive dDecisions made at meetings**

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

As soon as reasonably practicable after any meeting of a decision-making body at which an executive decision was made, the proper officer, or if the proper officer was not present at the meeting, the person presiding, must ensure that a written statement is produced and published on the council's website for every executive decision made which includes:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decisions; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service.

### **210.0 Recording of executive decisions made by Individual Members of the Cabinet Decisions by Individual Members of the Cabinet**

As soon as reasonably practicable after an individual Member has made an executive decision, that member must produce or instruct the proper officer to produce and publish on the Council's website a written statement of that executive decision which includes :

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;

- (c) details of any alternative options considered and rejected by the member when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the member which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

#### ~~20.1 Reports intended to be taken into account~~

~~When an individual Cabinet member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.~~

~~When an officer is taking a key decision they must make that decision considering a report and that decision must be made until 5 clear working days after receipt of that report.~~

#### ~~20.2 Provision of copies of reports to Overview and Scrutiny Committees~~

~~On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee or Sub-Committee as soon as reasonably practicable, and make it publicly available at the same time, unless it contains confidential or exempt information~~

#### 210.2 Recording of executive decisions made by Officers individual decision

As soon as reasonably practicable after an Officer has made a decision which is an executive decision, the officer must produce and publish on the Council's website a written statement which must include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by an executive member who is consulted by the Officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

#### 21.3 Reports intended to be taken into account

When an individual Cabinet member is taking a key decision they must make that decision considering a report from the relevant officer and that decision must not be made until 5 clear working days after receipt of that report.

When an officer is taking a key decision they must make that decision considering a report and that decision must not be made until 5 clear working days after receipt of that report.

## **221.0 Overview and Scrutiny Committees Access to Documents Rights of access to documents for members of the Overview and Scrutiny Committee**

### **221.1 Rights to copies**

Subject to Rule 22.3 below 20.2 above, an Overview and Scrutiny Committee ~~(including its Sub Committees)~~ will be entitled to a copy on request to copies of any document which is in the possession or under the control of the Cabinet or its Committees and which contains material relating to

- (a) any business transacted at meeting of the Cabinet or its Committees; or
- (b) ~~(b)~~ any decision that has been made taken by an individual member of the Cabinet in accordance with executive arrangements; or
- (c) any decision that has been made by an officer of the Council in accordance with executive arrangements.

22.2 Subject to Rule 22.3 below, where a member of an Overview and Scrutiny Committee requests a document which falls within Rule 22.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.-

### **221.32 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form; or
- (b) the advice of a political adviser.

No member of an Overview and Scrutiny Committee is entitled to a copy:

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
  - i) an action or decision that that member is reviewing or scrutinising
  - ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) of a document or part of a document containing advice provided by a political adviser or assistant

Where the Cabinet determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in Rule 22.1 or 22.3, it must provide the Overview and Scrutiny Committee with a written statement setting out the reasons for that decision.

### 21.3 Additional rights

The rights described in Rule ~~22.20.4~~ and ~~23.120.2~~ shall apply also in relation to non Executive functions dealt with by the Council and any regulatory or other Committees and Sub-Committees.

### **23.0 Additional Rights of Access to documents for Members of the Council**

#### 23.1 Subject to Rules 23.5 and 23.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
  - (b) contains material relating to any business to be transacted at a public meeting,
- must be available for inspection by any Member of the Council..

#### 23.2 Any document which is required by Rule 23.1 to be available for inspection by any Member of Council must be available for such inspection for at least five clear days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 23.1 in relation to that item, must be available for inspection when the item is added to the agenda.

#### 23.3 Subject to Rules 23.5 and 23.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains any material relating to:
  - i. any business transacted at a private meeting or part of a meeting held in private;
  - ii. any decision made by an individual member in accordance with executive arrangements; or
  - iii. any decision made by an officer in accordance with executive arrangements

must be available for inspection by any Member of the Council when the meeting concludes or where an executive decision is made by an Individual Member or an Officer immediately after the decision has been made.

#### 23.4 Any document which is required by Rule 23.3 to be available for inspection by any Member of Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

#### 23.5 Rules 23.1 and 23.3 do not require a document to be available for inspection if it appears to the proper officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (descriptions of exempt information: England);

23.6 Notwithstanding Rule 23.4, Rules 23.1 and 23.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

(a) paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or

(b) paragraph 6 of Schedule 12A to the Local Government Act 1972.

23.7 Where it appears to the proper officer that compliance with Rules 23.1 or 23.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political advisor or assistant, that paragraph will not apply to that document or part.

23.8 The rights conferred by Rules 23.1 and 23.3 are in addition to any other rights that a member of a local authority may have.

#### **~~22.1~~ Material relating to previous business**

~~All members will be entitled to inspect and have a copy of any document which is in the possession or under the control of the Cabinet or its Committees (including agenda and reports) and contains material relating to any business previously transacted at a meeting unless either (a) or (b) below applies:~~

- ~~(a) — it is a document that is in draft form (unless it is a document that was intended to be published in draft form); or~~  
~~(b) — it contains the advice of a political adviser.~~

#### **~~22.2~~ Material relating to key decisions**

~~All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless paragraph (a) or (b) above applies.~~

#### **~~22.3~~ 24.0 Agendas and Reports**

All members of the Council entitled, on request, to copies of all agenda and reports when published whether relating to Executive or non Executive functions.

#### **~~22.4~~ Nature of rights**

~~These rights of a member are additional to any other right he/she may have.~~

This page is intentionally left blank