

Public Document Pack

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CONSTITUTIONAL REVIEW WORKING PARTY

2 SEPTEMBER 2014

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Tuesday, 2 September 2014** in the Austen Room, Council Offices, Cecil Street, Margate, Kent.

Membership:

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

Councillors: Hayton, Nicholson, Watkins and Wright

A G E N D A

- | <u>Item No</u> | <u>Subject</u> |
|-----------------------|--|
| 1. | <u>APOLOGIES FOR ABSENCE</u> |
| 2. | <u>DECLARATIONS OF INTEREST</u>
To receive any declarations of interest. Members are advised to consider the extract from the Standard Board Code of Conduct for Members, which forms part of the Declaration of Interest Form at the back of this Agenda. If a Member declares an interest, they should complete that Form and hand it to the Officer clerking the meeting. |
| 3. | <u>MINUTES OF PREVIOUS MEETING</u> (Pages 1 - 2)
To approve the Minutes of the Constitutional Review Working Party meeting held on 1 May 2014, copy attached. |
| 4. | <u>CHANGES TO THE FILMING PROTOCOL</u> (Pages 3 - 46) |
| 5. | <u>REVIEW OF THE COUNCIL'S PETITIONS SCHEME</u> (Pages 47 - 64) |
| 6. | <u>REPORTING BACK TO COUNCIL ON DECISIONS MADE IN RELATION TO PETITIONS AND MOTIONS ON NOTICE</u> (Pages 65 - 74) |
| 7. | <u>MEMBER ATTENDANCE AT GENERAL PURPOSES COMMITTEE WHEN IT SITS AS A HUMAN RESOURCES COMMITTEE</u> (Pages 75 - 78) |

Item
No

Subject

8. **GIFTS AND HOSPITALITY** (Pages 79 - 82)
9. **PROPOSED REPORTS FROM THE CHAIRMAN OF THE OVERVIEW & SCRUTINY PANEL TO COUNCIL** (Pages 83 - 86)

Declaration of Interests Form

CONSTITUTIONAL REVIEW WORKING PARTY

Minutes of the meeting held on 1 May 2014 at 10.00 am in Council Chamber, Cecil Street, Margate, Kent.

Present: Dr Jonathan Sexton (Chairman); Councillors Hayton, Nicholson and Watkins

31. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Wright and Mrs Bacon.

32. DECLARATIONS OF INTERESTS

There were no declarations of interests.

33. MINUTES OF PREVIOUS MEETING

On the proposal of Councillor Nicholson, seconded by Councillor Hayton, it was AGREED that the minutes of the meeting of the Constitutional Review Working Party held on 13 March 2014 be approved and signed by the Chairman.

34. POSSIBLE REVIEW OF COUNCIL PROCEDURE RULES, PARTICULARLY IN RELATION TO OPPORTUNITIES FOR BACKBENCH MEMBERS' PARTICIPATION AT MEETINGS OF FULL COUNCIL

Upon consideration of the report, Working Party members made points and suggestions as follows:

1. The review in question should only take place in the wider context of the recent Peer Review or following the district council elections in 2015.
2. Adoption of options could:
 - a) result in longer meetings of the Council – *it was noted that paragraph 7.3 of Annex 1 suggested that Council meetings in Thanet were already longer than those of neighbouring councils.*
 - b) have an adverse effect on resource implications, *as per paragraph 3.1.2 of the report.*
3. The former practice of receiving written reports from the Chairman of Scrutiny at each of the ordinary meetings of full Council, should be re-introduced, providing that such reports were for information only and not subject to debate.
4. As indicated by the list at paragraph 4 of Annex 1, backbench Members already had ample opportunity to take part in meetings of full Council. Additionally, they were able to speak under Council Procedure Rule 24.1 at meetings of the executive, committees, boards and panels.

It was proposed by Councillor Nicholson, seconded by Councillor Hayton and AGREED:

1. TO RECOMMEND to Standards Committee:

- a) THAT no change to the Council Procedure Rules affecting Members' participation at meetings of full council is made at the present time;
 - b) THAT a written report for information be received at each ordinary meeting of Council from the Chairman of the Overview & Scrutiny Panel, providing that such reports were not open for debate.
2. THAT, prior to submitting recommendations at No. 1 above to the Standards Committee, a report be brought to the Working Party, outlining the necessary constitutional changes.

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

THAT officers review the current practice of enabling debate at meetings of full Council on reports back that are purely "for information" relating to petitions and motions on notice, and bring a report to the next meeting of the Working Party.

Meeting concluded : 10.35 am

CHANGES TO THE COUNCILS FILMING PROTOCOL

To: **Constitutional Review Working Party – 2 September 2014**

By: **Glenn Back, Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Summary: To recommend changes to the Council’s constitution in order to facilitate filming under the terms of the “Openness of Local Government Bodies Regulations 2014”.

For Decision

1.0 Introduction and Background

- 1.1 On the 6th August the new “Openness of Local Government Bodies Regulations 2014” came in to force. These regulations outlined significant changes to the way that the public were allowed access to Council meetings in order to film the proceedings.
- 1.2 The Council must now amend its current filming policy, within the Council’s constitution, in order to comply with these new regulations.
- 1.3 To support these new regulations the Government also published “Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government.” The guide is attached at Annex 1 to the report.

2.0 The New Regulations

- 2.1 The new regulations regarding the recording of meetings cover a number of areas including the ways that a meeting can be recorded, who can attend meetings to record proceedings, the types of meeting people can record, facilities for recording and what counts as disruptive behaviour when filming.
- 2.2 The new regulations also cover the publication of decisions notices for executive and regulatory decisions made by officers. These changes to the way the Council produces such “decision notices” are currently under review so will not be covered within this report.
- 2.3 The information (and definitions) set out below are largely taken directly from the Regulations, as well as the guidance issued by the Department for Communities and Local Government (DCLG), entitled “Open and Accountable Local Government– A guide for the press and public on attending and reporting meetings of local government”.
- 2.4 Questions and Answers from the Regulations/Guidance

i) Why is there new national legislation?

We now live in a modern, digital world where the use of modern communication methods such as filming, tweeting and blogging should be embraced for enhancing the openness and transparency of local government bodies.

ii) Who does this new legislation help?

These rules help any members of the press and public who want to know about, view or report the work of local government bodies. The “press” is defined in the widest terms – including traditional print media, filming crews, hyper-local journalists and bloggers. The new regulations have increased rights to film, audio-record, take photographs, and use social media such as tweeting and blogging to report the proceedings of all local authority meetings that are open to the public.

iii) Can meetings be filmed or audio-recorded?

Councils and other local government bodies are required to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. No prior permission is required to carry out this activity. Local government bodies are required to provide “reasonable facilities” for any member of the public to report on meetings. There is no legal requirement for councils to webcast their meetings, but where councils and other local government bodies webcast any of their public meetings, they should, as a matter of good practice, notify the public. As previously, all meetings are to be open to the public unless they are held private due to the application of an exemption. These rules have not changed. The Council may choose not to allow filming to take place in private meetings, and refuse permission for recording or filming equipment to be left in the room when a private meeting is taking place.

iv) Can a council or local government body meeting be tweeted or blogged?

The new legislation allows for reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings.

v) What sort of facilities will the Council or local government body have to provide?

Councils or local government bodies are required to provide “reasonable facilities” to facilitate reporting. This should include space to view and hear the meeting, seats, and ideally a desk.

vi) Are there any limits to what can be said in a tweet or video that is published?

The law of the land applies – including the law of defamation and the law on public order offences.

vii) Are there other limits that the Council should be aware of?

The Council or local government body should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed, without undermining the broader transparency of the meeting.

viii) Can someone be asked to leave a meeting because they are taking photographs, filming or audio-recording the meeting or using social media?

Generally, people attending public meetings must be readily able to film, audio-record, take photographs or use social media. Councils and other local government bodies must take steps to ensure this is the case. However, those undertaking these activities must not act in a disruptive manner, and this could result in expulsion.

ix) How does this sit alongside the Council's Standing Orders?

It is a legal duty for the Council to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, the relevant

provisions of those old Standing Orders should be waived, in the short term. Steps should then be taken to update formally the Council's Standing Orders. The Council has been waiving the current Council Procedure Rule (CPR) 35 to enable filming to take place as outlined in the Regulations since 6 August, and will continue to do so until the constitution is amended by full Council on 2 October 2014.

3.0 What Changes do the Council need to take?

3.1 The "Protocol for Filming of Council Committee meetings", as referred to in CPR 35, would need to be significantly amended in order to comply with the new regulations. However, no changes are needed in respect of tweeting, blogging and so on, because such activities are not precluded by the current filming protocol.

3.2 There are a number of key areas that will be central to the amended filming protocol that are not defined in detail either within the regulations themselves or in the accompanying guidance. That will be for each local authority to make a judgement on. The CRWP should take a view on these issues which are outlined in paragraphs 3.3 to 3.6.

3.3 Democratic Services have provided suggested solutions to these issues and these are included in the amended Filming of Council Committee Meetings Media Protocol attached at Annex 3, subject to CRWP approval.

3.4 Not filming members of the public without their permission

3.4.1 The guidance document as referred to in paragraph 2.3 vi) above says that the Council should consider taking measures to protect children, the vulnerable and those members of the public that object to being filmed.

3.4.2 As a result of this Democratic Services have included in the protocol, which CRWP may wish to amend, the reading of a formal statement at the beginning of each meeting (similar to the standard paragraph on Exemption of Press and Public). There are two reasons for the reading of this statement; the first would be to advise members of the public who are there to film to make strenuous efforts to avoid the filming of children and those objecting to being filmed as per the requirements of the regulations. Secondly this would also inform members of the public that filming was taking place and give them an opportunity to leave the meeting, should they not wish to be filmed or recorded. This is included at paragraph 3.2 of the amended protocol attached at Annex 3.

3.5 Filming that causes Disruption

3.5.1 Both the regulations and the guidance explicitly state that those attending to record the meeting should not act in a disruptive manner. This could result in them being excluded from the meeting.

3.5.2 The guidance defines being disruptive as "any action or activity which disrupts the conduct of meetings or impedes other members of the public being able to see, hear or film etc. the proceedings." It then lists the following examples:

- moving to areas outside the areas designated for the public without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion;
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

3.5.3 Democratic Services would suggest that as providing oral commentary on a meeting is prohibited under the regulations then it should be added to the list of examples of disruptive behaviour. Whilst this list is not exhaustive, having examples of disruptive

behaviour will be a help to chairmen during meetings, however this would not preclude a Chairman from taking action to exclude a person filming the meeting if their disruptive behaviour was not on the list of examples.

3.5.4 Democratic Services have added this list of examples at paragraph 3.6 to the amended Filming Protocol attached at Annex 3. CRWP may add or remove criteria as they see fit.

3.6 Amendments to Council Procedure Rules

3.6.1 In addition, Council Procedure Rules 30 and 35 will have to be amended to allow the removal of members of the public and Councillors from all meetings of the Council if they engage in disruptive behaviour. The amended wording is shown below:

“30.00 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rules 30, **and 34 and 35** apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, **27.3 - 27.5, 28, and 34 and 35”**

“35.0 Audio and Visual recordings of Council Meetings

35.1 ~~No~~ Audio or visual recordings shall be ~~allowed made at meetings except for official recordings by the clerk or recordings agreed by the Chairman in advance~~ in accordance with the “Protocol for Filming and Recording of Council meetings” which is included in Part 5 of this constitution.”

3.7 **Definition of Reasonable Facilities**

3.7.1 There is no definition provided of reasonable facilities within the regulations or the guidance. It could be argued that the following factors should be taken into account when deciding upon reasonable facilities: amount of public funds available to make alterations to the Council Chamber; Health and Safety concerns; and minimising disruption to the meeting.

3.7.2 With these factors in mind Democratic Services have included the following facilities to be included in the amended Filming Protocol:

- That persons attending to report meetings should be advised of the availability of WIFI to assist in this process;
- That seats with a view of proceedings are provided and that those present should remain seated, unless permission has been given to operate recording equipment that requires the user to stand up;
- That, in order to avoid accidents, it will not be possible for them to use electric sockets for their equipment;
- That if they intend to use a tripod, they should ensure that it does not cause a trip hazard or in any other way disrupt the meeting;

3.7.3 This list is included in paragraph 4.0 of the amended filming code attached at Annex 3.

3.7.4 Wider issues surrounding the layout of the Public Gallery and Press desk will be dealt with as part of the Council’s accommodation review in late autumn.

3.8 **Members of the Public attending Council Meetings to speak**

3.8.1 Members of the public attend various Council meetings to speak for a number of different reasons. This includes speaking for or against a planning application, asking a question at

Full Council, presenting a petition or objecting or supporting a licensing application. As a result of the new regulations, recording or filming of these members of the public is now allowed.

- 3.8.2 In order to alert members of the public who are attending in order to speak that they may be filmed, the Council will include notification of this fact in the letters written to members of the public when they are given the opportunity to speak. Members of the public can, if they object to being filmed, appoint a substitute to speak on their behalf.
- 3.8.3 When a Member of the public attends to speak at a meeting, but objects to being filmed, the Chairman of the meeting will request that those present do not record the person undertaking public speaking. However, whilst the Chairman can ask those present not to film certain members of the public, if those present refuse to refrain from filming them, there is nothing that can be done to stop them under the new regulations.

4.0 Amended Filming of Council Committee Meetings Media Protocol

- 4.1 Due to the number of changes necessary to the Filming Protocol, the current protocol is attached at Annex 2 to the report and the amended Filming Protocol is attached at Annex 3.

5.0 Future Review of Filming and Recording Protocol

- 5.1 The Filming and Recording Protocol will be reviewed in a years' time. This will allow Democratic Services to monitor the situation and to review how the first year of filming and recording has gone. It will also be an opportunity to amend the protocol (within the limitations of applicable law) based on the experience gained in the first year.

6.0 Corporate Implications

6.1 Financial and VAT

- 6.1.1 There are no direct financial implications to this report. However there may be a cost to the possible amended facilities provided to facilitate filming, as a result of the accommodation review in late autumn, but this would be covered within the cost of that review.

6.2 Legal

- 6.2.1 The Legal implications are outlined within the report, which complies with the Openness of Local Government Bodies Regulations 2014.

6.3 Corporate

- 6.3.1 The regulations are intended to encourage more people to take an interest in local democracy and Council meetings will potentially have a much wider audience, although it is uncertain at this stage what the level of interest from the public will be.

6.4 Equity and Equalities

- 6.4.1 None arising directly from the report.

7.0 Recommendation(s)

7.1 The CRWP recommend to Standards Committee:

7.1.1 That the amended Filming and Recording of Council Meetings Media Protocol be approved;

7.1.2 That Council Procedure Rules 30 and 35 are amended as follows:

“30.00 Application to Committees and Sub-Committees

Unless otherwise stated in these Rules, all of the Council Rules of Procedure apply to meetings of full Council and Rules 2.4, 4, 7–11, 14, 16–28 (but not 22.2 or 27.1) and Rules 30, **and 34 and 35** apply to meetings of Committees and Sub-Committees. None of the Rules apply to meetings of the Cabinet except for Rules 24, **27.3 - 27.5, 28, and 34 and 35”**

“35.0 Audio and Visual recordings of Council Meetings

35.1 ~~No~~ Audio or visual recordings shall be **allowed made at meetings except for official recordings by the clerk or recordings agreed by the Chairman in advance** in accordance with the “Protocol for Filming and Recording of Council meetings” which is included in Part 5 of this constitution.”

8.0 Decision Making Process

8.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable: Standards Committee Council	Date: 16 September 2014 2 October 2014
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Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager
Reporting to:	Paul Cook, Interim Director of Corporate Resources

Annex List

Annex 1	Open and Accountable Local Government – A guide for the press and public on attending and reporting meetings of local government
Annex 2	Current Filming of Council Committee Meetings Media Protocol
Annex 3	Amended Filming of Council Committee Meetings Media Protocol

Background Papers

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

Corporate Consultation Undertaken

Finance	Matthew Sanham – Corporate Finance Manager
Legal	Steven Boyle – Interim Legal Services Manager and Monitoring Officer
Communications	Hannah Thorpe – PR and Publicity Manager



Department for
Communities and
Local Government

Open and accountable local government

A guide for the press and public on attending and reporting meetings of local government

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About this Guide

The national rulesⁱ have been changed to make councils, including parish and town councilsⁱⁱ, and other local government bodies such as fire and rescue authorities, more transparent and accountable to their local communities. A full list of bodies to which the rules apply is at **annex A**.

This plain English Guideⁱⁱⁱ gives practical information about what these new rules mean for members of the public attending meetings of local government bodies, including meetings of a body's committees, sub-committees and any joint committees involving two or more bodies. The Guide also covers meetings of any council's executive (i.e. the council's cabinet^{iv}), including any committees and sub-committees of the executive.

In particular, this Guide gives practical information about how members of the public can use modern technology and communication tools to report on meetings they are attending, and about how to access information on decisions taken by a body's officers or individual members. This Guide will also help the public to know when they can attend meetings of local government bodies, and what documents and information are available to them. It should also help councillors and officers to comply with the new rules.

As the Guide explains, different rules apply to different meetings, particularly meetings of a parish council or parish meeting, and the meetings of a council's executive, its committees or sub-committees.

- **Part 1** focuses on the use of various communication tools for reporting the proceedings of any meeting of a local government body which is open to the public.
- **Part 2** explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers.
- **Part 3** explains how the public can access all other meetings of a local government body, other than parish and town councils, and records of certain other decisions taken by officers.
- **Part 4** explains how the public can access meetings of parish and town councils, parish meetings and the Council of the Isles of Scilly, and records of certain decisions taken by those councils' officers.
- **Part 5** focuses on other rights that the public have to access information.

This Guide now replaces the Guide titled "Your council – going to its meetings, seeing how it works" that the department issued in June 2013.

All footnotes are listed at the end of the Guide.

Part 1 Your rights to attend and report meetings

This part of the Guide applies to all the local government bodies listed at annex A.

Why are there new national rules?

We now live in a modern, digital world where the use of modern communication methods such as filming, tweeting and blogging should be embraced for enhancing the openness and transparency of local government bodies. This will ensure we have strong, 21st century, local democracy where local government bodies are genuinely accountable to the local people whom they serve and to the local taxpayers who help fund them.

Who do these rules help?

These rules help any members of the press and public who want to know about, view or report the work of local government bodies. The “press” is defined in the widest terms – including traditional print media, filming crews, hyper-local journalists and bloggers.

The new national rules^v have increased your rights to film, audio-record, take photographs, and use social media such as tweeting and blogging to report the proceedings of all such meetings that are open to the public.

Are all meetings of a local government body open to the public?

All meetings must be open to the public except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public – see Part 2 for the rules for a council’s executive, Part 3 for the rules for other local government bodies, other than parish and town councils, and Part 4 for the rules for parish and town councils.

Can I film or audio-record the meeting?

Yes, councils and other local government bodies are required to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. While no prior permission is required to carry out this activity, it is advisable that any person wishing to film or audio-record a public meeting let their local government staff know so that all necessary arrangements can be made for the public meeting. This is important because the rules require local government bodies only to provide reasonable facilities for any member of the public to report on meetings.

There is no legal requirement for councils to webcast their meetings, but where councils and other local government bodies webcast any of their public meetings, they should, as a matter of good practice, notify the public.

Do I need to have advance permission to report the meeting?

No. Whilst we would encourage people to contact staff in advance if they want to film or record, equally, we would discourage any system which “vetted” journalists or restricted reporting to “approved” journalists. Councils should support freedom of the press within the law and not seek to restrict those who may write critical comments.

Can I film or audio-record a private meeting^{vi}?

The rules on the use of communication methods, such as filming and audio-recording, only require local government bodies to allow the reporting of meetings open to the public. The relevant council or local government body may not allow you to film or audio-record its private meetings. You may also not be allowed to leave recording equipment in the room where a private meeting is held for the purpose of reporting on the meeting.

Can I tweet or blog a council or local government body meeting?

Yes, the new rules^{vii} allow for reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings. You should ask your council for details of the facilities they are providing for reporting.

If I am a councillor, can I tweet or blog during council meetings?

The national rules do not prevent councillors from tweeting and blogging at meetings, so they should be able to do so provided it is not disruptive and does not detract from the proper conduct of the meeting. Whilst councillors are expected to comply with their body’s code of conduct, this should not prevent councillors from tweeting or blogging when appropriate.

What sort of facilities will my council or local government body provide?

Councils or local government bodies are required to provide “reasonable facilities” to facilitate reporting. This should include space to view and hear the meeting, seats, and ideally a desk. Councils and local government bodies should use their common sense to determine the range of reasonable facilities they can actively provide to support the free press in all its forms.

To facilitate public scrutiny and public reporting, local authorities should not conduct their meetings in foreign languages.

Will I be allowed to film, tweet, blog or audio-record the meetings of other bodies not listed in annex A?

The Government message is that all public bodies should adopt maximum openness and transparency. This is also essential for bodies or groups making decisions for their local area because they are expected to be open and transparent in their decision-making. While the new national rules do not apply to some local groups such as neighbourhood forums and Local Enterprise Partnerships, such groups are encouraged, when having public meetings, to embrace the use of modern technology and should allow the same filming, audio-recording, taking of photographs, tweeting and blogging as applied to local government bodies, particularly if they are in receipt of public funds. This will give local people the opportunity to see how decisions are being made that affect their community.

Are there any limits to what I can say in a tweet or video I publish?

The law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media^{viii}).

Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

Are there other limits that I should be aware of?

The council or local government body should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed, without undermining the broader transparency of the meeting.

Will I be able to provide commentary during the meeting?

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The new rules do not permit oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting.

Can I be asked to leave a meeting because I'm taking photographs, filming or audio-recording the meeting or using social media?

Generally, people attending public meetings must be readily able to film, audio-record, take photographs or use social media. Councils and other local government bodies must take steps to ensure this is the case. However, those undertaking these activities must not act in a disruptive manner, which could result in being excluded from the meeting.

What is disruptive behaviour?

Essentially, this could be any action or activity which disrupts the conduct of meetings or impedes other members of the public being able to see, hear or film etc the proceedings. Examples can include:

- moving to areas outside the areas designated for the public^{ix} without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

You may be excluded from a meeting if you act in a disruptive manner.

Can I leave recording equipment in a public meeting room and record without being present?

There is no legal prohibition, however, under the national rules, the local government body may require any such recording to stop if at any stage the meeting becomes a private meeting.

But the local authority says reporting is a breach of its Standing Orders?

It is a legal duty for the local government body to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, in the short-term, we recommend they simply waive the relevant provisions of those old Standing Orders which could be taken to inhibit the new reporting rules, and then take steps to update formally its Standing Orders.

Part 2 Access to meetings and documents of a council's executive

This Part explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers. A council's executive (i.e. the council's cabinet) is its main decision making body consisting of an elected mayor or leader and a number of councillors. This Part applies to councils with either a leader and cabinet or elected mayor and cabinet. It does not apply to councils operating the committee system or other local government bodies listed in Annex A.

What are the national rules for access to meetings and documents of a council's executive?

The national rules are principally provided by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which introduced significantly greater transparency and openness into the meetings of a council's executive, its committees and sub-committees. The rules also strengthen the rights of councillors to access information about items to be discussed at a public or private meeting of their council's executive.

Who can make an executive decision in my council?

The decision maker can be the executive, its committees and sub-committees, joint committees, joint sub-committees, individual councillors, and officers who have delegated responsibility from the executive to make executive decisions. Your council may have local rules^x that will explain who may make a decision.

Attending the meetings of your council's executive

How will I know about a forthcoming public meeting of my council's executive?

Your council must give a notice of the meeting at least 5 clear days before it takes place. The details of the meeting must be published at your council's offices and on its website where practicable. The agenda must be published with any background papers. No item can be considered if the item is not available for inspection by the public with 5 clear days' notice.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda, public report and background papers must be published as soon as the item is added to the agenda. In some circumstances, the whole or part of a

report may not be available for public inspection because it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

Can I obtain a copy of the agenda and other relevant papers for a public meeting of my council's executive?

Yes, your council must provide you with a copy of the agenda, and other relevant papers once you have made payment of postage and/or copying charge. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a council's executive choose to meet in private?

All meetings of an executive including meetings of its committees or sub-committees must be open to the public, except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public.

The rules require a meeting of an executive to be closed to the public in two specific circumstances:

- If the presence of the public is likely to result in the council breaching a legal obligation to third parties about the keeping of confidential information; or
- a lawful power is used to exclude the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

In addition, a meeting can also be closed to the public where the executive so decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the executive if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement forcing councils to discuss exempt information in private.

What is confidential information?

Confidential information means:

- information provided to the council by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the executive, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained.

How will I know about a private meeting of my council's executive?

Prior to holding a private meeting, your council must have published on its website and at its offices at least 28 clear days' notice of its intention to consider a matter in private and the reasons for the private meeting. This is to ensure that members of the public have reasonable opportunity to make representations as to why the proposed private meeting should not be held in private.

At least 5 clear days before the meeting, your council must confirm its intention to go ahead with the private meeting through another notice on its website and at its offices. This second notice has to include details of any representations received and the council's response to them.

Can a private meeting of my council's executive be held if 28 days' notice is not given to the public?

A private meeting can only be held without 28 days' notice after the agreement of the Chairman of the Overview and Scrutiny Committee has been obtained that the meeting is urgent and cannot reasonably be delayed. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or, in their absence, the Vice Chairman) must be obtained. If this agreement is granted the council must publish a notice about why the meeting is urgent and cannot be deferred. This notice must be available at its offices and on their website. If agreement is not given then the meeting must either be held in public, or the council must comply with the 28 day notice requirements.

Can I attend an executive's pre-briefing meeting with local authority officers?

No. The rules apply only to when councillors meet as a decision making body to exercise their statutory executive responsibilities. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council's executive, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require a council to keep records of any executive decisions^{xi} made as soon as reasonably practicable after any public meeting. The written records must reflect the following information:

- Details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest of an executive member of the decision-making body; and
- a note of dispensation granted by the Head of Paid Service in respect of any declared conflict of interest.

You can then inspect the records and any reports considered at the meeting at your council's offices and on the council's website if it has one. All of these documents can be inspected for six years beginning from the date of the meeting apart from background papers which can be inspected for four years beginning from the date of the meeting. These records may be kept in electronic format.

Apart from information about meetings, are there other means of knowing about decisions likely to be made by a council's executive, its committees and sub-committees?

Yes. The national rules require a council to publish its intention to make a key decision^{xii} in a document at least 28 clear days prior to when the decision is intended to be made. The notice has to include details of the individual or executive body that will make the decision, the matter that is subject to a decision, other documents to be considered, and where these other documents are available. This notice document must be available at the council's offices and on its website before the decision is made.

This allows you to have sufficient knowledge in advance of those decisions that will be of genuine concern to you and your local communities.

Can a key decision of a council's executive^{xiii} be made without giving the 28 days' notice?

Yes, provided the following requirements are met:-

- the relevant Overview and Scrutiny Committee Chairman is informed in advance and in writing (or all the members of the Overview and Scrutiny Committee) about what the decision is concerning;
- a notice about the key decision to be made is made available for inspection at the council's offices and published on the website; and
- 5 clear days elapse following the day a notice is published about the key decision to be made.

If there is a case of special urgency, for example an urgent decision on a negotiation, expenditure or contract, the decision must only be made if the agreement of the Overview and Scrutiny Committee Chairman is received. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or in their absence the Vice Chairman) must be obtained. If agreement is given, a notice explaining why the decision is urgent and cannot reasonably be deferred, must be published and should be available at the council's offices and on its website as soon as reasonably practicable.

Can 28 days' notice of a key decision also provide 28 days' notice required for a council executive's private meeting?

It is up to your council to decide whether the 28 day key decision document should contain the details required for a private meeting notice. Where there is an intention to make a key decision at a private meeting, your council must comply fully with all the national rules.

Can my council's executive make key decisions and not follow the national rules?

No. Councils must comply with all the national rules since they are prescribed by law. Should a decision be made without applying the key decision rules because the council thinks that the decision is not a key decision, but subsequently the Overview and Scrutiny Committee decides the decision is a key decision, the executive may be asked to submit a report to the full council.

Executive decisions by an individual member or officer

Can an individual member or an officer of a council's executive take decisions on matters that are the executive's responsibility?

Yes, where the rules of your council allow this. Decision makers can be individual councillors, and officers who have delegated responsibility from the executive to make executive decisions.

How will I know about an executive decision taken by a member or officer?

When a member or officer takes a decision on matters that are the responsibility of the council's executive, this must be recorded in writing. The form of the written record is for the council to decide, but the following should be included:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any executive member consulted in relation to the decision; and
- a note of dispensation granted in respect of any declared conflict of interest.

Are all decisions made by councils' officers to be so recorded?

No. The requirement to record decisions extends only to "executive decisions". Executive decisions can sometimes be defined in your council's rules. Decisions which are taken by officers under specific delegations from a meeting of their council's executive are clearly executive decisions. However, many administrative and operational decisions officers take on how they go about their day to day work will be delegated within the council's rules and are not in this "executive decisions" category; as such they do not need to be recorded.

The decisions that should be not recorded might include the following examples:

- Decisions to allocate social carers to particular individuals, or for example, to provide walking aids;
- decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs;
- decisions to review the benefit claims of an individual applicant and
- decisions to allocate market stalls to individual traders.

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values;
- decisions to exercise powers of Compulsory Purchase;
- decisions on disposal of and/ or provision of allotment land and green spaces;
- awarding of Discretionary Rate Relief
- the opening hours of local libraries; and
- the holding of car boot sales/markets on council-owned land.

This is not intended to be an exhaustive list, rather a series of examples to illustrate that, in the interests of maximum transparency, these Regulations require more than just key decisions to be recorded.

Ultimately it is for local decision makers to decide what information should be recorded on the basis of the national rules.

How can I see any records of decisions taken by executive members or officers?

Once a record of executive decisions taken by an executive member or officer has been made, you should be able to inspect the record at the council's offices and on its website as soon as reasonably practicable.

However you will not be able to see some of the information if it is considered to be either confidential or exempt information.

Can I ask for a copy of any records of executive decisions?

Yes. You can ask for a copy of any documents relating to executive decisions and your council should supply the information once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Your rights as a councillor

If I am a councillor, do I have any right to access meeting documents?

As a councillor, you can inspect any document that contains material to be discussed at least 5 days before a public meeting is held. In case of a private meeting or decision made by an individual executive member or officer, you can inspect the document within 24 hours of the conclusion of the meeting or the decision being made.

In addition, if you are a member of an overview and scrutiny committee, you can ask for any document that contains business transacted at a meeting of the executive, its committees or sub-committees or officer of the authority. The executive must provide the

document within 10 days after it (the executive) receives the request. In an instance where the executive cannot release the whole or part of the document, the executive must provide you with a written explanation.

What other rights do councillors have to inspect documents of their councils?

In addition to the rights conferred on councillors by these Regulations in relation to executive decision making, councillors also have statutory rights to inspect documents of the council and its committees under Part 5A of the Local Government Act 1972.

Councillors may also request information held by their council under the Freedom of Information Act 2000 (or the Environmental Information Regulations 2004 in relation to environmental information). Councillors may have rights under the common law to inspect such documents held by their council as are reasonably necessary for them to perform their duties.

What happens if documents relating to executive decisions are not made public?

It is a criminal offence if, without a reasonable excuse, a person who has in his or her custody a document^{xiv}, which the national rules require to be made available to the public, refuses to supply the whole or part of the document or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she can be fined up to £200^{xv}.

Part 3 Access to non-executive meetings and documents of a local government body, other than parish and town councils

This Part explains how the public can access all meetings (other than those of a council's executive) of a council or other local government body, other than parish and town councils. These meetings include those of a body's committees, sub-committees and any joint committees involving two or more local government bodies. It also explains how to access the records of certain non-executive decisions taken by the officers of local government bodies, other than parish and town councils.

Attending the meetings

How will I know about a forthcoming meeting of my council or local government body which will be open to the public?

Your council or local government body must give a notice of the meeting at least 5 clear days before a public meeting is held. The details of the meeting, such as the time and place, must be published at your council or local government body's offices. The notice may also be published on the body's website where practicable. You can also inspect the agenda and any background papers at least 5 clear days before the meeting.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda and background papers must be published as soon as the item is added to the agenda.

An item that is not on the agenda can only be considered in special circumstances if the chairman is of the opinion that the item should be considered at the meeting as a matter of urgency. Any such special circumstances should be specified in the minutes.

How can I obtain a copy of the agenda and other relevant papers for a public meeting?

If you are representing a newspaper, your council or local government body must provide you with a copy of the agenda and any background upon payment of postage and/or copying charge. Councils and local government bodies are encouraged to provide a similar service to other members of the public upon request and payment of postage and/or copying charge.

In some circumstances, the whole or part of a report may not be available for public inspection if it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a meeting be held in private?

The rules require a meeting of a council or local government body to be closed to the public in two circumstances:

- If the presence of the public is likely to result in the council or local government body breaching a legal obligation to third parties about the keeping of confidential information; and
- if the council or local government body decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the council or local government body if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement compelling the body to discuss exempt information in a private meeting.

The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine misbehaviour at a meeting.

What is confidential information?

Confidential information means:

- information provided to the council or local government body by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the council or local government body, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained. The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

How will I know about a private meeting of my council or local government body?

The rules do not require your council or local government body to notify the public if a meeting will be held in private. However, where part of a public meeting will be held in private, it should be explained when the public is notified of the meeting.

Can I attend a pre-briefing meeting with local authority officers?

No. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council or local government body, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the council or local government body to make the following documents available for inspection after a public meeting:

- a copy of the minutes;
- a summary of the proceedings, where applicable;
- a copy of the agenda;
- a copy of any report for the meeting as relates to any item during which the meeting was open to the public; and
- a copy of a list of the background papers for any report for the meeting.

You can then inspect the records and any reports considered at the meeting at your council or local government body's offices and on the council or local government body's website if it has one. All of these documents can be inspected for six years, apart from background papers which can be inspected for four years beginning from the date of the meeting.

Decisions by officers

Can an officer take decisions on matters that are the council or local government body's responsibility?

Yes, where the council or local government body's rules^{xvi} allow this.

How will I know about decisions made by officers?

The new national rules require the recording of certain decisions^{xvii} taken by officers acting under powers delegated to them by a council or local government body, its committees or sub-committees or a joint committee. The written record must be available for inspection at the council or local government body's offices and on the website if it has one^{xviii}, as soon as reasonably practicable, and should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

Where a decision is taken under a specific express authorisation, the names of any member of the council or local government body who has declared a conflict of interest must be recorded.

The relevant council or local government body must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my council or local government body's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation and to only three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to "grant a permission or licence"; that "affect the rights of an individual" (i.e. to change an individual's legal rights)^{xix}; or to "award a contract or incur expenditure which, in either case, materially affects^{xx} that relevant local government body's financial position".

Officers take many administrative and operational decisions about how they go about their day to day work within the council's or local body's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential or exempt information.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body);
- a decision to carry out major road works;
- determination of licencing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises;
- decisions on operational matters such as day to day variations in services;
- decisions to give business relief to individual traders;
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under the Data Protection Act 1998 or the Freedom of Information Act 2000.

These are a few selected examples and not an exhaustive list. It is for the council or local government body to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my council or local government body?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council or local government body.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxi} (which is required by the national rules to be made available to the public),

refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxii}.

Part 4 Access to meetings and documents of parish and town councils

As a member of the public, you have the right to attend the annual parish and town meeting, as well as the meetings of parish and town councils^{xxiii}, and of the Council of the Isles of Scilly. This Part explains how the public can access meetings of these councils and records of certain decisions taken by those council's officers.

Attending meetings of parish councils and the Council of the Isles of Scilly

How will I know about a forthcoming meeting of a parish or town council or the Council of the Isles of Scilly which is open to the public?

Parish and town councils and the Council of the Isles of Scilly must give notice of their meeting at least 3 clear days before it takes place. Where a parish meeting^{xxiv} is called, at least 7 clear days' notice must be given.

Notice of the meeting specifying the business to be discussed must be placed in a central conspicuous place within the parish or area at least 3 clear days before the meeting. These councils are also encouraged to place copies of the agenda, meeting papers and notice of meetings at offices and on their website, if they have these facilities.

Can a parish or town council or the Council of the Isles of Scilly choose to meet in private?

All meetings of these councils must be open to the public, except in limited defined circumstances. These councils can only decide, by resolution, to meet in private when discussing confidential business or for other special reasons where publicity would be prejudicial to the public interest.

What is confidential information and publicity prejudicial to the public interest?

Though not an exhaustive list, we expect this to cover matters such as discussing the conduct of employees, negotiations of contracts or terms of tender, or the early stages of a legal dispute.

Can I be asked to leave a public meeting?

Yes. As a member so the public you can be asked to leave a meeting so that the council can discuss matters in private, but only in the limited circumstances described above. The rules also do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your parish and town council, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the parish and town councils to make a copy of the minutes available for inspection after a public meeting.

You can inspect the minutes at your council's offices and on the council website if it has one.

Decisions by officers

Can an officer take decisions on matters that are the parish or town council's responsibility?

Yes, where the parish or town council's rules allow this.

Are there means of knowing about decisions made by individuals?

Yes. The rules require the recording of certain decisions^{xxv} taken by officers acting under powers delegated to them by a parish or town council, its committees or sub-committees or a joint committee. The written record should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

You can see these records of decisions made by officers along with any other background papers because they have to be available for inspection at the council's offices and on its website as soon as is reasonably practicable after the decisions are made^{xxvi}.

The relevant parish or town council must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my parish or town council's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation, and only to three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to “grant a permission or licence”; that “affect the rights of an individual”(i.e. to change an individual's legal rights)^{xxvii}; or to “award a contract or incur expenditure which, in either case, materially affects^{xxviii} that relevant local government body's financial position”.

Officers take many administrative and operational decisions on how they go about their day to day work within the council's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential information or any other information, which its publicity would be prejudicial to the public interest.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant parish or town council); and
- decision to renew a lease to an Allotment Association.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published has the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as the purchase of office supplies or repairs;
- a decision to sign an allotment tenancy agreement;
- decisions to allocate burial plots; and
- decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor.

These are a few selected examples and not an exhaustive list. It is for the council to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my parish or town council?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage,

copying or any other necessary charge for transmission which will be determined by your parish or town council.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxix} which is required by the national rules to be made available to the public, refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxx}.

Part 5 Your other rights of access to information

Are there other rights I can exercise?

The Local Government Transparency Code sets out the minimum datasets that your local authority should publish. These include spending transactions valued over £500, salaries of senior staff, organisational charts, contracts and the location of public land and assets. The Code applies to local authorities, including parish councils with annual income or expenditure (whichever is the higher) over £200,000^{xxxi}. Local authorities with annual income or expenditure of above £6.5m will soon be statutorily required to comply with Part 2 of the Code when the relevant regulations are in place. You can obtain further information on this from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308185/Local_Government_Transparency_Code_2014_Final.pdf

You can inspect a council's detailed financial accounts, ledgers and records under section 15 of the Audit Commission Act 1998. In addition, the Accounts and Audit (England) Regulations 2011^{xxxii} cover checking not just the accounts, but also "all books, deeds, contracts, bills, vouchers and receipts related to them". More information on this right is available at: <https://www.gov.uk/government/policies/making-local-councils-more-transparent-and-accountable-to-local-people/supporting-pages/peoples-rights-to-see-council-accounts>

Also, you have the right to request information held by your council by submitting a Freedom of Information Act request to your council (a similar regime exists in relation to environmental information under the Environmental Information Regulations 2004). Information on the Freedom of Information Act and data protection is available on the Information Commissioner's Office website at: <http://ico.org.uk/>

You have certain rights to re-use for your own purposes documents held by the council under the Re-use of Public Sector Information Regulations 2005. These Regulations provide that any request for re-use must be in writing, and where possible and appropriate the council must make the document concerned available for re-use by electronic means. More information is available at:

<http://www.legislation.gov.uk/uksi/2005/1515/introduction/made>

Where can I find the legislation relating to access to local government bodies' and council's executive meetings and information?

The relevant legislation about access to local government body meetings and information is in Section 40 of the Local Audit and Accountability Act 2014. The relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2014/2/section/40>

The detailed provisions on how any person can report on the meetings of a local government body are in The Openness of Local Government Bodies Regulations 2014 which can be found at:

<http://www.legislation.gov.uk/id/uksi/2014/2095>

The legislation relating to access to information regarding decisions made by council executives, and their committees, sub-committees and joint committees is Part 1A of the Local Government Act 2000 – see sections 9G and 9GA. This part was inserted as a result of amendments made by the Localism Act 2011 and the relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/schedule/2/part/1>

The detailed provisions on the rights to attend meetings and obtain information of an executive are in the secondary legislation made under the 2000 Act, that is the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which can be found at:

<http://www.legislation.gov.uk/uksi/2012/2089/contents/made>

The legislation relating to access to meetings and documents of a council and other local government bodies can be found in Part VA of the Local Government Act 1972, available at the following link:

<http://www.legislation.gov.uk/ukpga/1972/70/part/VA>

The legislation relating to access to meetings of a parish or town council can be found at section 1 the Public Bodies (Admission to Meetings) Act 1960, available at the following link:

<http://www.legislation.gov.uk/ukpga/Eliz2/8-9/67/section/1>

Annex A – Description of the local government bodies that are covered by the new rules

- (a) a district council,
- (b) a county council in England,
- (c) a London borough council,
- (d) the London Assembly (Greater London Authority),
- (e) the Common Council of the City of London in its capacity as a local authority or police authority,
- (f) the London Fire and Emergency Planning Authority,
- (g) Transport for London,
- (h) a joint authority established under Part 4 of the Local Government Act 1985,
- (i) an economic prosperity board,
- (j) a combined authority,
- (k) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (l) a National Park Authority for a National Park in England,
- (m) the Broads Authority,
- (n) the Council of the Isles of Scilly,
- (o) a parish council, and
- (p) a parish meeting.

The new national rules also apply to the committees, sub-committees and joint committees of these local government bodies.

Annex B – Descriptions of Exempt Information

The exempt information set out at Schedule 12A to the Local Government Act 1972 Act is as follows:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
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.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
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.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The qualifications to the list of exempt information are as follows:

- A.** Information falling within number 3 above is not exempt information by virtue of that paragraph if it is required to be registered under--
[the Companies Acts (as defined in section 2 of the Companies Act 2006)];
the Friendly Societies Act 1974;
the Friendly Societies Act 1992;
the *Industrial and Provident Societies Acts 1965* [Co-operative and Community Benefit Societies and Credit Unions Acts 1965] to 1978;
the Building Societies Act 1986; or
[(f) the Charities Act 2011.
- B.** Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

C. Information which—

falls within any of numbers 1 to 7 above; and
is not prevented from being exempt by virtue of number A or B above,

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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- ⁱ The new national rules are in The Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...) and The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 (S.I. 2012/2089).
- ⁱⁱ A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ⁱⁱⁱ The Guide should not be taken as providing any definitive interpretation of the statutory requirements on councils, members, officers, or of public rights: those wishing to address such issues should seek their own legal advice.
- ^{iv} A council's cabinet is its main decision making body, consisting of an elected mayor or leader and a number of councillors.
- ^v Part 2 of the Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...)
- ^{vi} "Private meeting" is a meeting or part of a meeting during which the public are excluded for limited and certain circumstances described in the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012
- ^{vii} Regulation 4 of The Openness of Local Government Bodies Regulations 2014
- ^{viii} http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/
- ^{ix} Any area designated for the public should be appropriate for filming, audio-recording and photographing.
- ^x Each council has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xi} An "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 of a local authority.
- ^{xii} "key decision" means an executive decision which, is likely—
to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- ^{xiii} All references to 'a council executive' should be construed to include the executive's committees and sub-committees, joint committees, and joint sub-committees.
- ^{xiv} A document can be the written record of executive decisions made by an executive member or officer or any other background papers.
- ^{xv} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xvi} Each council or local government has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xvii} Regulation 7(2) of the 2014 regulations.
- ^{xviii} If a local government body does not have offices or a website, other appropriate means should be used to allow you to access these documents, such as publishing the information on a website of another local authority body in the area.
- ^{xix} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xx} As the financial position of bodies affected by these rules varies, what constitutes the material threshold is a judgement that should be made by individual bodies.
- ^{xxi} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxii} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xxiii} A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ^{xxiv} A parish meeting is a meeting for all of the local government electors of the parish. This can be in the case of an annual meeting in an area where there is a separate parish council, or any meeting of local government electors where there is no separate parish council.
- ^{xxv} Regulation 7(2) of the 2014 regulations.
- ^{xxvi} If a parish or town council does not have offices or a website, other appropriate means should be used to make the papers accessible to the public, such as publishing the information on the website of the local principal authority.
- ^{xxvii} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xxviii} As the financial position of bodies affected by these rules varies, what constitutes the 'material threshold' is a judgement that would be made by individual bodies.
- ^{xxix} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxx} This fine could change to reflect any future changes in legislation and/or national policy.

^{xxxi} The government has recently consulted on a new transparency code for certain authorities with a turnover not exceeding £25,000 pa, which will act as a substitute for routine external audit. The draft code is available at: <https://www.gov.uk/government/consultations/draft-transparency-code-for-parish-councils>

^{xxxii} Under the new Audit framework, this right is restated in Section 26 of the Local Audit and Accountability Act 2014. The Government will be consulting shortly on draft regulations in relation to the new arrangements. Some changes are proposed to the framework for exercising public rights, but broadly the aim is to simplify and clarify arrangements. The intention is for the regulations to be in place for the accounting period 2015-16.

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Filming of Council Meetings

1.0 Filming of Council Committee Meetings Media Protocol

- 1.1 Filming of Council Committee meetings will be permitted in accordance with the following media protocol.

2.0 Rules for filming of Council meetings

- 2.1 Requests to film Council Committee meetings will only be granted to accredited media representatives.

The definition of an accredited media organisation is as follows:

“a media organisation or individual that holds a National Press Card and is registered with the Press Complaints Commission (or its successor) or a similar regulated body with a code of conduct and associated complaints process through which the Council could take recourse”.

- 2.2 This media protocol applies to the following Council Committee Meetings – Full Council, Cabinet and Overview and Scrutiny.
- 2.3 This protocol does not include meetings of Regulatory Committees such as Planning, Licensing, Governance & Audit and Standards, at which filming will not be permitted.
- 2.4 No audio or visual recordings will be permitted except for official agreed recordings.

3.0 Requesting permission

- 3.1 Requests to film a council meeting must be submitted to the council’s Corporate Communications team.
- 3.2 They should be submitted electronically to:
press.office@thanet.gov.uk
- 3.3 All requests must be submitted at least five working days prior to the meeting. Requests received after this time will have no guarantee of being considered.
- 3.4 The request must clearly state the name of the journalist or broadcaster who wishes to film at the meeting, along with proof of accreditation.
- 3.5 Media outlets must identify clearly whether they are seeking permission for a single broadcaster with a hand held device or if this will involve an additional cameraman and/or sound technician.

4.0 Granting permission

- 4.1 The decision on whether to grant permission to film will be made by the Chairman of the Committee in advance of the meeting taking place.
- 4.2 It will be for the Chairman to determine whether to consult or involve the rest of the Committee in the decision to grant permission. However, if the Chairman makes a

decision to allow filming, the consent of relevant committee members to such filming will be presumed to have been given, by virtue of the existence of this protocol in the constitution.

- 4.3 The Corporate Communications team will confirm to the journalist whether permission has been granted.
- 4.4 Permission to film will be granted on the basis that the journalist agrees in advance of the meeting to adhere to the media protocol.
- 4.5 Where permission to film has been granted, the members of the committee will be informed of that decision prior to the meeting taking place.
- 4.6 The decision of the Chairman of the Committee is final and there will be no avenue of appeal.

5.0 Protocol during filming

- 5.1 Where a Chairman has granted permission to film they will announce at the beginning of that meeting that filming will take place.
- 5.2 Once granted, permission will apply to film the meeting in full for all items that are open to the press and public.
- 5.3 Filming any items which are identified as 'excluded from press or public' will not be permitted.
- 5.4 Members of the media will be permitted to film or record the meeting on a hand-held mobile device or tablet, standard video recorder or free-standing camera.
- 5.5 Permission to film will only be granted on the basis that filming does not interrupt or disturb proceedings.
- 5.6 While filming, journalists will be asked to remain in one designated media area and will not have permission to move around while the meeting is underway.
- 5.7 This permission does not extend to filming or recording any members of the public in attendance without seeking prior and independent consent.

Filming and Recording of Council Meetings

1.0 Filming and Recording of Council Meetings Media Protocol

- 1.1 Filming of Council meetings will be permitted in accordance with the following media protocol.
- 1.2 Council meetings include all meetings of Full Council, Cabinet, Committees, Panels, Boards, Working Parties and Cabinet Advisory Groups.

2.0 Who do the rules apply to?

- 2.1 This protocol applies to any person attending a Council meeting including the press, the public and Councillors.
- 2.2 The Press are defined as traditional print media, filming crews, hyper-local journalists and bloggers.
- 2.3 Recording may include filming, audio-recording, the taking of photographs and the use of social media such as twitter and blogging.

3.0 The Protocol

- 3.1 Those wishing to record a Council meeting do not need to seek prior permission in order to record the meeting. However the Council would respectfully ask that if a person intends to record a meeting they contact the Council prior to the meeting, as this will help the Council to ensure that they have reasonable facilities at the meeting. All notifications should be sent to press.office@thanet.gov.uk .
- 3.2 The Chairman of the meeting will, during the house keeping announcement at the beginning of the meeting, ask whether any of those present will be recording the meeting. The Chairman will then give any member of the public present who objects to being filmed the opportunity to leave the meeting. Once those persons have left the Chairman will then ask those people present who are recording to refrain from recording those members of the public who are left in the public gallery, but to especially refrain from recording any children present. In addition if a member of the public is present to speak, but has raised an objection to being recorded, the Chairman will also ask all those present to refrain from recording that person.
- 3.3 Filming of proceedings on any items which are identified as 'excluded from the press or public' (under Schedule 12A of the Local Government Act 1972 or equivalent provisions) will not be permitted. All recording equipment should be removed from the meeting room at the point in any meeting that it moves into closed session under such provisions.
- 3.4 Those recording the proceedings do not have permission to move around the room while the meeting is underway.

3.5 Those present to the record the meeting should not act in a disruptive manner as this could result in them being excluded from the meeting.

3.6 The Chairman of the meeting could use Council Procedure Rules (CPR) 27.3 and 27.4 if you are a Councillor or CPR 28 if you are a member of the public to exclude you from the meeting if you conduct any action or activity which disrupts the conduct of the meeting or impedes other members of the public being able to see, hear or film etc. the proceedings. Examples which may lead to exclusion include:

- moving to areas outside the areas designated for the public without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion, including providing oral commentary on a meeting;
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

4.0 Reasonable Facilities

4.1 The Council will make the following facilities available to those present to record meetings:

- That persons attending to report meetings should be advised of the availability of WIFI to assist in this process (where it is available);
- That seats with a view of proceedings are provided and that those present should remain seated, unless permission has been given to operate recording equipment that requires the user to stand up;
- That, in order to avoid accidents, it will not be possible to use electric sockets for equipment;
- The use of a tripod is allowed, however you should ensure that it does not cause a trip hazard or in any other way disrupts the meeting.

REVIEW OF THE COUNCILS PETITION SCHEME

To: **Constitutional Review Working Party – 2 September 2014**

By: **Committee Services Manager**

Classification: **Unrestricted**

Summary: To review elements of the Council's Petitions Scheme.

For Decision

1.0 Introduction and Background

1.1 This report seeks the views of the Constitutional Review Working Party (CRWP) on a number of issues regarding the Council's petition scheme. These include to firstly clarify that paper and electronic petitions can be run together at the same time, secondly whether there should be any amendments made to the deadlines for submission of petitions and thirdly to consider issues arising from some petitions with a limited target audience.

1.2 A copy of the Council's current petitions scheme is attached at Annex 1 to this report.

2.0 Concurrent Paper and Electronic Petitions.

2.1 Recently the Council received a valid request for an Epetition regarding the compulsory purchase of Manston Airport. This was then placed on the Council's website for members of the public to register and sign. We were then contacted by the Epetition organiser asking whether additional signatures on an identical paper petition would be allowed to be submitted in addition to those collected electronically. The petition scheme does not specifically allow or preclude the concurrent running of a paper petition and Epetition. After studying the constitution, consulting with the Legal Department and getting the approval of the Senior Management Team it was decided that with the proviso that if the wording of both the paper petition and the Epetition were exactly the same then it would be acceptable in principle. However it would not be possible to add together the number of people that had signed the Epetition and the paper petition as they did not ask for the same information, making it impossible to say for certain that "double signing" had not occurred. For this reason the report to Council contained two separate figures regarding the number of signatures rather than a single one.

2.2 This lack of clarity is undesirable and the Council's petitions scheme needs to be clarified to avoid such confusion moving forward. There are a number of options that could be used to clarify the rules.

2.3 Prohibit paper petitions and Epetitions being run concurrently

2.3.1 Specifically precluding this option would certainly stop the problem occurring in the future; however this could potentially have accessibility issues, as if we only accept one or the other type of petition it might mean that some people could be excluded from signing a petition (e.g. those who do not have access to a computer)..

2.4 Allowing paper petitions and Epetitions being run concurrently

- 2.4.1 There are two different ways that this could be actioned. The first way would be to change the information that is asked for on both paper petitions and Epetitions in order to assist Democratic Services staff in working out whether someone has signed both a paper and Epetition. All those who signed an Epetition would need to provide a full postal address when signing the Epetition in addition to pre-registering. In addition all those signing a paper petition would need to provide a full postal address including a house number, street name, town and postcode. If these two pieces of information were supplied then it would be possible to cross reference the petitions to see if anyone had signed a petition twice. It would therefore mean that if we did not have the information described we would have to reject those signatures. Democratic Services could then add the number of signatures in both the paper and Epetition together for the purposes of establishing which threshold the petition had reached.
- 2.4.2 It is important to note that it would be a labour intensive process to verify signatures between an Epetition and a paper petition, especially seen in the numbers of the recent Manston petition referred to earlier. In addition to this issue Democratic Services also received feedback from the organisers of the Manston CPO petition that the Council's Epetition system was a "*...cumbersome website which alienated many people and discriminated against people without IT skills...*". So the idea that asking for even more information might be counterproductive. Democratic Services could remove the need to log on in order to sign an Epetition, this would make the process easier, however the risk of doing this would be that it would make it much easier to abuse a petition and make it easy for a person to sign it multiple times and it increases the risk of the Council receiving automatically generated "spam".
- 2.4.3 Alternatively on the proviso that both petition prayers of the paper and Epetition were exactly the same then Democratic Services could present the numbers that had signed both the paper and Epetition to Council as separate numbers. Democratic Services would then use the higher of the two figures for purposes of establishing which threshold the petition had reached. The downside to this would be that the petition may not meet as high a threshold as it would have done had the signatures been added together as described in paragraph 2.4.1 above.
- 2.4.4 If it is the view of the CRWP that concurrent paper and Epetitions should be allowed then irrespective of which of the options at 2.4.1 or 2.4.3 is chosen, two points that need to be clarified. Firstly the petition prayer for both the Epetition and the paper petition must be identical; otherwise they would be treated as separate petitions. Secondly the end date of the Epetition and the date of submission of the paper petition must be the same date; if not then they would again be treated as separate petitions. The need for identical closing dates for concurrent petitions is largely a practical one, because if there were different closing dates, those different dates could end up implying referral to different Council meetings! Note also that any petition treated as "separate" because of failure to comply with the above would almost certainly be ruled out on the "substantially similar" to a previous petition rule.

3.0 **Amendments to the Deadlines for submission of petitions**

- 3.1 Currently there are three separate deadlines for petitions to be submitted prior to Council meetings in order for them to be dealt with at that Council meeting. The deadlines relate to the number of people who have signed the petition. In order for a petition to be presented to a meeting of Full Council:
- A petition with 25 or more, but fewer than 650 signatures should be submitted to the Council 10 working days in advance of the date of the meeting of Full Council.
 - A petition with 650 or more but fewer than 1000 signatures should be submitted at least 25 working days in advance of the date of the meeting of Overview and Scrutiny Panel;

- A petition with 1000 or more signatures that does not request that an officer gives evidence to the Overview and Scrutiny Panel meeting should be submitted to the Council at least 25 working days in advance of the date of the meeting of Full Council.
- 3.2 The deadlines were originally based on the amount of time Officers needed to write the supporting reports that would accompany the petition when they were dealt with at Council or the Overview and Scrutiny Panel. The smaller petitions (fewer than 650 signatures) only need a small report that presents the petition with no actual detail on the subject of the petition, whereas the larger petitions (both 650-1000 and 1000+ signatures) need reports that cover actual detail of the subject of the petition to help facilitate debate. The latter will evidently take more time to produce than a largely procedural report.
- 3.3 Due to the high profile nature of the petition for the compulsory purchase of Manston, Kent's International Airport, Council agreed at its meeting held on 10 July 2014 to waive the rule in the petitions scheme that requires a petition with 1,000 or more signatures to be submitted at least 25 working days in advance of a council meeting in order that the petition could be presented at that meeting. This raises the question of whether the notice period of 25 working days might generally be regarded as too long, and could be shortened. Otherwise, if waiving the notice period would only be for exceptional circumstances for petitions surrounding high profile or urgent issues, who would decide on whether an issue was high profile urgent?
- 3.4 Any new deadline should allow for the writing and inclusion of the report in the published agenda papers. This was the reasoning behind the 10 working day deadline for small petitions as the reports that are written are small and contain little detail of the subject matter of the petition submitted. If the CRWP are considering shortening the deadlines within which petitions can be submitted, then it should aware that agendas must be sent out at least five clear working days in advance of the meeting in order to comply with access to information rules.
- 3.5 If the CRWP are inclined to allow concurrent Epetitions and paper petitions then there is a real possibility that a large amount of officer time will be needed for the checking and verifying of signatures especially on very large petitions such as the recent Manston CPO petition, which could impact on the number of days needed between the submission of a petition and its inclusion in agenda papers for a meeting of Council.
- 3.6 In order to obviate any misunderstanding on the part of a petitioner as regards the date of the meeting at which a petition can be presented, Democratic Services will, if a petitioner requests an end date for an Epetition that would mean it would miss the submission deadline for the next meeting of Council or Overview and Scrutiny Panel, explain to the petition organiser the significance of the date they have chosen and offer them the chance to change it. Democratic Services will also, once a final decision has been reached on whether the periods of notice for petitions should be adjusted, publish the deadline dates for the submission of petitions on the TDC website.
- 4.0 Petitions with a limited target audience**
- 4.1 The Council has recently received a number of smaller Epetitions, which although valid and were placed on the Council's webpages did not achieve the required number of signatures to reach the minimum threshold for consideration as a petition. In these cases the petition organiser's petition prayer has been forwarded to the relevant Council department to be dealt with as a normal piece of correspondence.
- 4.2 In one instance, when Democratic Services contacted the petition organiser to inform him that his petition had not reached the minimum threshold, he expressed his disappointment, but made the point that the issue that he had petitioned about only affected the road that he lived in and that the road only had 20 or so people living in it, so it was impossible for him to ever reach the minimum threshold.

- 4.3 As a result of this correspondence the issue is before Members to discuss. Members could choose to reduce the minimum threshold for a petition from the current 25 signatures; however this may not solve the issue that is highlighted here, without reducing the number to such an extent that it would virtually allow any issue to be submitted as a petition, which could greatly increase the number of “valid” petitions received.
- 4.4 Democratic Services have conducted some desktop research in order to find out the lowest threshold for petitions to be considered valid amongst the other East Kent Council’s. The results are as follows:

Council	No. of signatures required for a petition to be considered valid
Shepway	At least 250
Dover	At least 20
Ashford	At least 50
Canterbury	More than 15
Kent	No threshold referred to, so presumably Zero

5.0 Introducing a Petitions Proforma

- 5.1 Democratic Services have had one case in the recent past where a paper petition was submitted, but the petition organisers had failed to collect the correct information (i.e. a name, address and signature) from petitioners, thereby resulting in the petition being rejected. There have also been a number of occasions where it has been difficult to ascertain who the petition organiser is as contact details have not been made clear on the petition. Therefore Democratic Services have developed a proforma for those people looking to organise a paper petition, attached at Annex 2.
- 5.2 Whilst it would not be proposed to make use of the form compulsory, making it available should help those members of the public who are unsure of the information required and reduce the number of petitions where doubtful or unclear information is provided.
- 5.3 If the CRWP is supportive of introducing the use of such a proforma it is proposed that it would be placed on the Council’s petition webpages for members of the public to download.

6.0 Options

- 6.1 The CRWP may wish to make recommendations on the following areas of the petitions scheme:
- 6.1.1 To allow or prohibit Paper and Epetition to be run concurrently (and agree any consequent changes).
 - 6.1.2 To amend the deadlines for the submission of petitions.
 - 6.1.3 To consider amendments to the way the Council deals with very small petitions.
 - 6.1.4 To introduce a petition proforma.

7.0 Corporate Implications

7.1 Financial and VAT

- 7.1.1 A significant increase in the number of petitions received or the possibility of having to manually check paper petition entries against Epetition entries could significantly increase the amount of officer time needed to process petitions.

7.2 Legal

7.2.1 The implications for the various options are discussed within the report. Members should be aware of the potential staff implications of the options.

7.3 Corporate

7.3.1 The Council's petitions scheme can be used to promote community involvement.

7.4 Equity and Equalities

7.4.1 The petitions scheme is open for use by all people, and it is not considered that equality considerations need to be addressed in this report.

8.0 Recommendation

8.1 The Working Party is invited to consider whether:

:

- i. to allow paper and Epetitions to be run concurrently and agree any consequential changes, and if so, determine whether to include or preclude checking by officers for double entries;
- ii. to reduce the current notice required for petitions with 650 or more signatures from 25 working days;
- iii. to reduce the current threshold of signatures which enables a petition to be presented at a meeting of full Council from 25

8.1.3 The Working Party is invited to note the improvements that the Democratic Services will make in relation to implementing the petitions scheme, as outlined at paragraph 3.6 above.

9.0 Decision Making Process

9.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable: Standards Committee Council	Date: 16 September 2014 2 October 2014
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Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Glenn Back, Democratic Services and Scrutiny Manager

Annex List

Annex 1	TDC Petitions Scheme
Annex 2	Draft Petitions Proforma

Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Matthew Sanham, Finance Manager (Service Support)
Legal	Steve Boyle, Interim Legal Services Manager and Monitoring Officer

Petitions from the public

1.0 Paper petitions can be sent to:

Democratic Services and Scrutiny Manager
Thanet District Council
PO Box 9
Cecil Street
CT9 1XZ

Petitions can also be presented to a meeting of the Council. Dates and times can be found at www.thanet.gov.uk

This scheme sets out thresholds for responding to petitions, as follows:

1. Ordinary petitions - those petitions signed by 25 or more petitioners but fewer than 650 will be presented to Council and referred to the Cabinet or another appropriate committee without debate, for report to the Council within three ordinary meetings.
2. Petitions signed by 650 or more petitioners, but fewer than 1,000, will be considered at a meeting of the Overview and Scrutiny Panel, and, the petitioner will have the option to have a named officer attend the meeting to give evidence.
3. Petitions signed by 1,000 or more petitioners will be debated at a meeting of Council, unless:
 - (a) the petitioner has already exercised the above option to request that a named officer attends, in which case it will be considered at a meeting of the Overview and Scrutiny Panel or
 - (b) the petition relates to an issue for which the executive has responsibility and Council decides, following presentation of the petition, to refer it to Cabinet without debate. In such a case, the person who presents the petition at the Council meeting will be able to re-present the petition at the subsequent meeting of Cabinet at which the petition is considered.

1.1 What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take
- The name and address and signature of any person supporting the petition.

If a petition has 25 or more, but less than 650, signatories, it must be submitted 10 working days in advance of a Council meeting in order for it to be considered at that meeting.

If a petition has 650 or more, but less than 1,000, signatories or has 1,000 or more signatories but requests that an officer gives evidence at an Overview and Scrutiny Panel meeting it must be submitted to the Council at least 25 working days in advance of a meeting of the Overview and Scrutiny Panel in order for it to be considered at that meeting.

If a petition has 1,000 or more signatures and does not request that an officer gives evidence to the Overview and Scrutiny Panel meeting it must be submitted at least 25 working days in advance of a Council meeting in order for it to be considered at that meeting.

If the deadlines are not met in paragraphs above, the petition submitted will be not be considered until the subsequent meeting of either Council or the Overview and Scrutiny Panel (as appropriate).

To be valid Petitions must be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be disclosed. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which the Monitoring Officer in consultation with the Leader of the Council and the Chairman of the Overview and Scrutiny Panel consider to be vexatious, abusive, otherwise inappropriate or substantially the same as one already received within the preceding twelve months will not be accepted and the reasons for this will be explained in our acknowledgement of the petition. The test that should apply in such circumstances would be the same as that used for Freedom of Information requests i.e. 'Is the request likely to cause distress, disruption or irritation without any proper or justified cause'.

In addition if the petition applies to a planning or licensing application, these may be rejected by the Monitoring Officer alone. In addition if the petition is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here www.thanet.gov.uk.

If the Council receives a petition that is rejected because it is substantially similar to, or counter to, one already received and the original petition has not yet been presented to a Council meeting, then Democratic Services will ensure that the Council meeting that considers the original petition will be made aware of the existence of the rejected petition.

If the Council receives a petition, but it is rejected for any of the reasons outlined within this scheme, then the grounds for rejecting that petition must be reported to the next available meeting of the Overview and Scrutiny Panel.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

1.2 What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. The petition will also be published on our website

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition needs more investigation, we will tell you the steps we plan to take. Otherwise, if the petition can be presented at a Council or Overview and Scrutiny Panel meeting because it falls into one of the categories described in the introduction to this scheme, we will advise you of the date of the meeting, where the meeting will take place, and what you can expect to happen at the meeting.

Further, if your petition has 1,000 or more signatures and relates to an issue for which the executive (Cabinet) has responsibility, we will let you know. Council is unable to take a decision on something that is the responsibility of the executive and may, therefore, decide, following presentation of the petition at the Council meeting, to refer the petition to Cabinet with or without debate. If the petition is referred to Cabinet without debate, you will be able to re-present the petition at the subsequent meeting of Cabinet at which the petition is considered. We will inform you of the date of that Cabinet meeting and what you can expect to happen when you attend to make your presentation.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate as determined above.

When we receive a paper petition we will inform relevant Ward Councillor(s) if it is about a specific issue relevant to one or more Wards, or if your petition affects the whole of Thanet then we will inform all of our Councillors.

1.3 How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a committee meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Overview and Scrutiny Panel*
- writing to the petition organiser setting out our views about the request in the petition
- requiring a Senior Officer to attend a meeting of the Overview and Scrutiny Panel to give evidence*
- Holding a debate at that full Council meeting

* The Overview and Scrutiny Panel is a committee of Councillors who are primarily responsible for scrutinising the work of the Council in other words, the overview and scrutiny panel has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition.

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible at www.thanet.gov.uk .

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

The Council will publish on its website the results of petitions with 25 or more signatories.

Total time devoted to the consideration of Petitions at any single Council meeting will not exceed 30 minutes in total. If there are insufficient petitions to fill the time allocated then Council business shall proceed automatically.

The order of reports on petitions received shall be printed within the agenda papers in the order in which they were received by the Council.

1.4 Smaller Petitions

If a petition has 25 or more, but less than 650, signatories it will be presented to Council and referred to the Cabinet or another appropriate committee without debate, for report to the Council within three ordinary meetings.

The petition organiser will be offered three minutes to present the petition at the meeting.

1.5 Officer evidence

If your petition contains 650 or more, but less than 1,000, signatures, or contains 1,000 or more signatures and specifically requests officer evidence, the Chief Executive, Director, Head of Service or 3rd tier Manager will give evidence at a public meeting of the Overview and Scrutiny Panel.

The petition organiser will be offered five minutes to present the petition at the meeting and the petition will then be discussed by Councillors.

You should be aware that the Overview and Scrutiny Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Panel may also decide to call the relevant Councillor Portfolio

Holder to attend the meeting. Panel members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Chairman of the Overview and Scrutiny Panel up to three working days before the meeting. Confirmation of an officer giving evidence at a public meeting of the Overview and Scrutiny Panel will also be published on our website.

When the Overview and Scrutiny Panel considers a petition it will make a report back to the next available (ordinary) Council meeting.

1.6 Full Council debates

If a petition contains 1,000 or more signatures it will be debated by the Council unless it falls into the categories described at paragraphs (a) and (b) below.

This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. Council will endeavour to consider the petition at the meeting following receipt of a petition, although on some occasions this may not be possible and consideration will then take place at the following meeting.

The petition organiser will be offered five minutes to present the petition at the meeting and the petition will then be discussed by Councillors.

Council will then decide how to respond to the petition at that meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council executive are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Exceptions:

- (a) if a petition with 1,000 or more signatures asks for a senior Council officer to give evidence at a public meeting, it will be considered by the Overview and Scrutiny Panel, as described at Clause 1.5 above;
- (b) If the petition with 1,000 or more signatures relates to an issue for which the executive (Cabinet) has responsibility, it may following presentation be referred by Council to Cabinet without debate.

1.7 Re-presentation of petitions at meetings of Cabinet

If a petition with 1,000 or more signatures that relates to an issue for which the executive (Cabinet) has responsibility is referred by Council to Cabinet without debate, the person who presents the petition at the meeting of Council will be able to re-present it at the subsequent meeting of Cabinet at which it is considered and will have up to five minutes to do so.

1.8 What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Overview and Scrutiny Panel review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can

improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Panel will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the Panel determine we have not dealt with your petition, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council executive and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within five working days. The results of the review will also be published on our website.

1.9 E Petitions

The council welcomes e-petitions which are created and submitted through our website www.thanet.gov.uk. E-petitions must follow the same guidelines as paper petitions as outlined above. The petition organiser will need to provide us with their name and email address.

You will also need to decide how long you would like your petition to be open for signing.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for the public to sign. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain why this is the case. You will then be able to change and resubmit your petition if you wish.

When an e-petition has closed for signing, it will automatically be submitted to Democratic Services In the same way as a paper petition, you will receive an acknowledgement within 10 working days. It will let you know what we plan to do with the petition and when you can expect to hear from us again.

If you would like to present your e-petition to a meeting of the council, please contact Democratic Services and they will advise you how to do this.

If your e-petition reaches one of the Council's thresholds as set out in para 1.0 above, we will inform the relevant Ward Councillor(s) if it is about a specific issue relevant to one or more Wards, or if your petition affects the whole of Thanet then we will inform all of our Councillors.

1.9 How do I 'sign' an e-petition?

You can see all the e-petitions currently available for signature at www.thanet.gov.uk.

When you sign an e-petition you will be asked to provide your name and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it, but your contact details will not be visible.

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Petition to Thanet District Council

Front sheet to be submitted with the petition

Contact details of the lead petitioner (the person organising the petition)

Name:

(please print)

Address:

(please print)

Signature:

For Council use only:

Daytime phone number:

Email address:

Subject of the Petition

We the undersigned petition the Council to:

Please submit your petition to:

Nicholas Hughes
Committee Services Manager
Thanet District Council
PO Box 9
Margate
CT9 1XZ

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MOTIONS ON NOTICE AND PETITIONS - REPORTS BACK TO COUNCIL

To: **Constitutional Review Working Party – 2 September 2014**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Ward: **Not applicable**

Summary: **To review the current practice of reporting back to Council on decisions made by Cabinet, Panels, Boards and Committees in relation to petitions and motions on notice.**

For Decision

1.0 Introduction and Background

1.1 Under the Council's current council procedure rules and petitions scheme, some petitions and motions on notice received by full council can, or must, be referred to Cabinet or another decision-making body for determination or report. Apart from the automatic referrals of "small petitions" to Cabinet or appropriate committee (*as referred to in paragraph 2.2 below*), there is no provision in the constitution to require reports to be brought back to full Council. However, it is the Council's practice to do so and, at the same time, enable a debate to take place if Members so wish.

1.2 Occasionally, the merits of this practice have been questioned by some Members, particularly where debate has already taken place at a full council meeting. However, other Members have stated the view that full council must have at least one opportunity to debate a petition or motion on notice that have been referred to it.

1.3 This matter was raised again at the last meeting of this Working Party, when it was AGREED:

"THAT officers should review the practice of enabling debate at meetings of full Council on reports back that are purely 'for information' relating to petitions and motions on notice, and bring a report to the next meeting of the Working Party".

2.0 The Current Situation

2.1 Petitions and motions that have been received by full Council since 18 April 2013 are summarised at Annex 1.

2.2 Basically, there are two types of petitions that must be referred by Council to Cabinet or another decision-making body: the "small petitions" (*i.e., those with 25 to 649 signatures*), which must be referred without debate for report (back) to Council within three ordinary meetings; and the "large petitions" (*with at least 1,000 signatures*) relating to an executive function, which must be referred, with or without debate, to Cabinet.

2.3 Similarly, motions on notice relating to an executive function must be referred to Cabinet, with or without debate. Those relating to an issue on which only full council

can take a decision cannot be referred, and will fall if not debated or adopted. Motions falling into this latter category are listed at Section B of Annex 1.

2.4 It will be noted from Annex 1 that:

- a) of the fourteen items listed in Section A, five were debated upon initial receipt by council, although four had to be automatically referred to another body without debate on account of their being “small petitions”;
- b) discounting item nos 1-3 and 9 (*on which reports back to Council have not yet been possible*), three of the ten items were debated by council upon receiving a report back;
- c) in only one case (*item no. 7 – NOM on designation of conservation area, Cliftonville*) did a debate by council occur on both occasions it was on the agenda; although the latter “debate” comprised only of comments by a few Members.
- d) in one instance (*item no. 6*), suggestions made by Members upon report back resulted in further action in relation to the decision being agreed to by the Portfolio Holder.

What is the position of our neighbouring councils?

2.5 Early in 2013, a telephone survey carried out by democratic services indicated that three of our neighbouring councils – Canterbury, Dover and Shepway – always facilitated debates on motions on notice at meetings of full Council. At that time, it had been difficult to determine Ashford’s position, as only one motion on notice had been received since 2007.

2.6 A further telephone survey, extended to include petitions, was conducted on 18 August 2014, the purpose of which was to establish: (1) whether there was always an opportunity for full council to debate a petition or motion on notice; and (1) whether full council refers petitions or motions to other decision-making bodies and, if so, whether reports are brought back to council.

The results of this more recent survey are summarised in Table 1:

Table 1

Council	Can a debate can place at full council on a petition or a motion on notice?	Comments
Canterbury	<p>Yes - potentially <u>twice</u>:</p> <p>On petitions, where these automatically trigger full council debates by virtue of the number of signatures and if referred to other decision-making bodies</p> <p>On motions on notice, where the Lord Mayor allows debate upon receipt of the motion by full council. However, motions are usually referred without debate.</p>	<p>Information on decisions of the decision-making body on petitions and motions on notice are included in the minutes that go before full council. Any items on the minutes can be debated.</p> <p>Additionally, in the case of motions on notice, there is a separate agenda item for reporting back to full council. There is specific provision within the constitution for reports back on motions on notice, CPR 13.06 (iii) (iv) stating, “Any motion which is referred to a committee or other body will be discussed by them and be the subject of a report back”. Reports back can be debated.</p>

Council	Can a debate can place at full council on a petition or a motion on notice?	Comments
Dover	<p>Yes :</p> <p>Potentially <u>twice</u> on motions on notice – generally, referred to Scrutiny; reports are brought back to full council and issues can be debated prior to referral and also upon receipt of reports back.</p> <p><u>Once</u> on “large petitions”, unless full council requests a report back.</p>	
Ashford	<p>Yes – <u>once</u> potentially on motions on notice</p> <p>No – petitions, which generally go direct to the relevant decision-making body and are not reported on to full council.</p>	<p>Only one motion on notice was received by full council in the past year - in October 2013. A decision on the motion was taken at that full council meeting.</p> <p>Petitions rarely received.</p>
Shepway	<p>Yes – <u>once</u> on motions on notice; if, <u>following debate</u> they are referred to another decision-making body there is no expectation that a report is brought back to full council.</p> <p>Yes, <u>once</u> on “large petitions”; no expectation upon referral that a report would be brought back to full council</p>	

2.7 It will be noted from Table 1:

- a) That, overall, only Canterbury has a similar practice to Thanet, in that it is possible for full council to debate motions on notice and “large petitions” on two occasions – once before and once following referral – and that, in the case of “smaller petitions” which are automatically referred to another body, the decision taken is reported back to, and debate can take place by, full council, although in the case of Canterbury, the “report back” is in the form of minutes.
- b) Dover also enables two debates on motions on notice; however, reporting back on petitions only takes place where full council has so requested.
- c) Ashford is not comparable as petitions and NOMs are received so rarely;
- d) There is no expectation in Shepway that reports are brought back at full council.

2.8 Possible arguments for and against reporting back/ enabling debates are listed below, although the Working Party may think of more compelling arguments.

2.9 Against

- a) There is potential for unnecessary repetitions of debates (*although Annex 1 does not indicate any repetition actually took place in the period from 18 April 2013*);

- b) There are other ways in which Members can express views on a motion / petition, apart from a debate on report back, for example:
 - i. any Member who does not sit on the decision-making body to which an item is referred can speak under Council Procedure Rule (CPR) 24.1 when the item is being considered;
 - ii. the Member who is proposing a motion on notice can make an introductory speech under CPR 16.3 prior to a motion “standing referred”;
 - iii. the proposer of a motion (or in their absence, the seconder) can, under CPR 24.2, speak to explain the motion and take part in the debate at the meeting of a “committee, sub-committee or working party at which the motion is considered”. (In practice, this Rule has been interpreted as excluding Cabinet meetings.)
- c) Reporting back could be construed as a mere formality on which a debate is inappropriate as full Council is unable to change the decision. For example, Council cannot “undo” a decision of Cabinet that is reported to it.
- d) Indeed, is it even necessary to inform council of decisions taken? (*As noted above, Shepway does not expect decisions to be reported back to council*)
- e) There is a “call-in” procedure in relation to Cabinet decisions.

2.10 For

- A. Reporting back to the body that originally receives the petition or motion on notice (*i.e. full council*) is a way of “squaring the circle”, or achieving “transparency”. Council is made aware of the outcome relating to something it may have discussed and has referred onward.
- B. Some Members may prefer to receive formal notification of decisions at council meetings.
- C. The constitution requires other decisions to be reported back on to full council, for example, “special urgency” decisions as described in Access to Information Procedure Rule 19.0 and “urgent decisions not subject to call-in”, as described in Overview and Scrutiny Procedure Rule 15 (L).
- D. Providing an opportunity for debate on reports back can encourage Member participation, particularly where a debate has not previously taken place at a full council meeting. Indeed, Table 1 above suggests that it would be unusual for Constitutions to allow a situation whereby Council might have no opportunity at all to debate something referred to it (for example, where it must first be referred elsewhere without debate).
- E. If debate is allowed on reports back, Members can seek reassurance on aspects of the decision made and make suggestions (which, as evidenced by item no. 6 on Annex 1, could result in further action being taken in relation to a decision).
- F. Although there are other ways in which Members can make their views known on an issue, as described at paragraph 2.11 (b) (i) to (iii) above, some might suggest that these are no substitute for a full debate at council.

3.0 Options

- 3.1 The Working Party may wish to consider whether or not to continue the practice of reporting back to council on decisions taken in relation to petitions and motions, and, if so, whether or not to allow a debate to take place.
- 3.2 The Working Party may wish to reconsider the constitutional provisions which in some cases mean that Council can receive a petition or a motion on notice and not be able to debate it at the point of receipt. It could be argued that members of the public struggle to understand why they can present something to Council and there be no debate on it at that point.
- 3.3 The Working Party may wish to consider whether, if the constitution were to be changed to ensure debate of items at the point of receipt, there remains a need to report back to Council upon the eventual outcome, though the “transparency” argument above needs to be considered.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 None apparent.

4.2 Legal

- 4.2.1 The current practice in relation to reporting back on petitions and motions on notice, or any changes to this practice, should be set out clearly in the Council’s constitution.

4.3 Corporate

- 4.3.1 In so far as this report considers petitions, the way in which Council handles their receipt could be seen to have an impact on the reputational image of the Council – petitioners need to be assured they have been given a fair hearing and their points have been considered by Council. Could referral without debate or report back be seen to undermine petitioners’ rights in that respect?

4.4 Equity and Equalities

- 4.4.1 None apparent.

5.0 Recommendation(s)

- 5.1.1 THAT the Working Party considers whether or not to continue the practice of reporting back on decisions relating to petitions and motions on notice and, if so, whether or not to allow a debate to take place;
- 5.1.2 That the Working Party considers the constitutional provisions which in some cases mean that Council can receive a petition or a motion on notice and not be able to debate it at the point of receipt.
- 5.1.3 That the Working Party considers whether, if the constitution were to be changed to ensure debate of items at the point of receipt, there remains a need to report back to Council upon the eventual outcome.
- 5.1.4 THAT officers be instructed to draft amendments to the constitution to clarify the practice as recommended by the Working Party.

6.0 Decision Making Process

- 6.1 Recommendations by the Working Party will be referred to the Standards Committee who, in turn, makes recommendations to Council.

Future Meetings	Date:
Standards Committee	16 September 2014
Council	2 October 2014

Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager, Ext. 7187
Reporting to:	Paul Cook, Interim Director of Corporate Resources and S.151 Officer, Ext. 7617

Annex List

Annex 1	Summary of details of petitions and motions on notice received by full council since 18 April 2013
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	N/A
Legal	Steve Boyle – Interim Legal Services Manager & Monitoring Officer

Topic	Petition or Notice of Motion (NOM)	Date of council meeting receiving petition/NOM	Did debate take place upon receipt?	Comments	Call-in of Cabinet decision ?	Date referred back to Council	Debated on report back?	
SECTION A								
1	Compulsory purchase, Manston, Kent's International Airport	Petition (large)	10 July 2014	No	Referred to Cabinet; with petitioner having opportunity to re-present the petition	No	n/a	n/a
2	Compulsory purchase, Manston, Kent's International Airport	NOM	10 July 2014	Yes	Referred to Cabinet; with petitioner having opportunity to re-present the petition	No	n/a	n/a
3	Margate Port (sluice gate)	Petition (small)	24 April 2014	No	Automatic referral to Cabinet	Yes	due 2 October 2014	n/a
4	Broadstairs Memorial Recreation Ground	Petition (large)	27 February 2014	No	Petition related to an executive function	No	24 April 2014	No
5	Introduction of a local levy	NOM	27 February 2014	No	Referral to Cabinet	No	24 April 2014	No
6	Article 4 Direction	NOM	27 February 2014	No	Referral to Cabinet	No	24 April 2014 ¹	Yes
7	Designation of Conservation Area, Cliftonville	NOM	27 February 2014	Yes	Motion amended before referral to Cabinet	No	10 July 2014	Yes - briefly
8	Licensing of Street Traders	Petition (small)	05 December 2013	No	Automatic referral	n/a	24 April 2014	Yes - briefly
9	A & E Services - QEQM Hospital, Margate	Petition (large)	05 December 2013	Yes	Referral to the Overview and Scrutiny Panel	n/a	Scrutiny work ongoing	n/a

Topic	Petition or Notice of Motion (NOM)	Date of council meeting receiving petition/NOM	Did debate take place upon receipt?	Comments	Call-in of Cabinet decision ?	Date referred back to Council	Debated on report back?
10 Former Swimming Pool site, Warre Recreation Ground, Ramsgate	Petition (small)	05 December 2013	No	<i>Automatic referral to Cabinet</i>	No	27 February 2014	No
11 Rubbish on land at Margate Road, Ramsgate	Petition (small)	05 December 2013	No	<i>Petition originator not present at the meeting of Council; automatic referral to Cabinet</i>	No	27 February 2014	No
12 "Bedroom Tax" (<i>Housing Benefit Social Rented Size Criteria</i>)	NOM	03 October 2013	Yes	<i>Motion agreed in principle and referred to Cabinet</i>	No	05 December 2013	No
13 Pleasurama / Ramsgate Royal Sands Development Agreement	Petition (large)	11 July 2013	No	<i>Referral to Cabinet</i>	No	24 April 2014	No
14 Pleasurama / Ramsgate Royal Sands Development Agreement	Petition (large)	18 April 2013	Yes	<i>Referral to Overview & Scrutiny Panel</i>	n/a	11 July 2013 24 April 2014	No - both meetings

SECTION B

Where only council can adopt a NOM

a	Downgrading of Post offices	NOM	03 October 2013	Yes	<i>Adopted</i>		
b	UK's relationship with the European Union	NOM	05 December 2013	No			
c	Moving to a committee system of governance	NOM	10 July 2014	No			

Topic	Petition or Notice of Motion (NOM)	Date of council meeting receiving petition/NOM	Did debate take place upon receipt?	Comments	Call-in of Cabinet decision ?	Date referred back to Council	Debated on report back?
d Smear testing for women aged 16 years and over	NOM	10 July 2014	Yes	<i>Adopted</i>			

¹ Discussion upon report back to council resulted in the Portfolio Holder agreeing to take a further course of action in relation to the decision

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MEMBER ATTENDANCE AT GENERAL PUPOSES COMMITTEE WHEN IT SITS AS A HUMAN RESOURCES COMMITTEE

To: **Constitutional Review Working Party – 2 September 2014**

By: **Democratic Services & Scrutiny Manager**

Classification: **Unrestricted**

Summary: To consider the recommendations of the General Purposes Committee regarding the entitlement of Councillors to attend General Purposes Committees.

For Decision

1.0 Introduction and Background

1.1 At its meeting of 29 April 2014 the General Purposes Committee agreed the following recommendation:

“The issue of Member attendance at General Purposes Committee when it sits as a Human Resources committee should be referred for consideration at the Constitutional Review Working Party.”

1.2 This report presents this recommendation and sets out options on how it could be introduced.

2.0 The Current Situation

2.1 The General Purposes Committee is a Local Government Committee that is open for the public to attend, unless there is confidential or exempt material being discussed when the public are excluded under Schedule 12A of the Local Government Act 1972. As elected Members all Councillors are entitled to attend these meetings including any parts where the public are excluded.

2.2 The work of the General Purposes Committee can include dealing with confidential staff matters such as appointing statutory senior officers and considering complaints against those officers. The nature of these items of business inevitably means the public are excluded under various grounds as set out in Schedule 12A of the Local Government Act 1972.

2.3 The specific General Purposes Committees recommendation relates to a situation when the General Purposes Committee were discussing a very confidential staffing matter. The Committee felt the issue was so sensitive that (aside from essential supporting officers) only those Councillors who were part of the committee should be present when it was considered. Three Councillors were present to speak under Council Procedure Rule 24.1 and whilst the committee could not prevent those Councillors from being present, they did ask that they leave the room whilst the confidential items were considered. The three Councillors did leave as requested, but the General Purposes Committee felt that the situation had been unsatisfactory and hence made the recommendation above.

3.0 Attendance at General Purposes Committee

- 3.1 As mentioned above Councillors are entitled to attend all Local Government Act Committee meetings, therefore it would not be possible to “ban” attendance from certain meetings (in this case General Purposes Committee). However if Council could come to an agreement that only Members of the General Purposes Committee can attend General Purposes meetings when Human Resources matters are being discussed such a clause could be added to the Council’s constitution.
- 3.2 It is accepted that such a clause inserted in the constitution could potentially be open to challenge or be difficult to enforce legally and that compliance would rely on the “goodwill” of Councillors.
- 3.3 If such a rule were introduced it would be envisaged that Councillors would still be entitled to attend to speak under Council Procedure Rule 24.1 and that this speaking would occur at the beginning of the meeting (or relevant agenda item), immediately after which those Councillors who were not part of the Committee would then be required to leave the meeting.
- 3.4 In addition if such a rule were introduced then there would need to be a set of criteria to define which meetings were deemed to be about Human Resources matters and who would carry out the assessment against the criteria.
- 3.5 It is anticipated that where sensitive Human Resource matters are to be discussed that these be dealt with at a meeting exclusively called for that purpose and no other business would be placed on the agenda for that meeting. These matters would be those as defined in the Officer Employment Procedure Rules and the Standing Orders relating to staff. For the sake of clarity, the meeting could be called a General Purposes Committee (Human Resources) meeting (though in fact it would remain a meeting of the General Purposes Committee established by Council).
- 3.6 It could be the case that the Chairman of the General Purposes Committee and the Monitoring Officer jointly decide in the process of compiling the agenda for the meeting whether a meeting would be considering “Human Resources matters” as per the criteria set out at paragraph 3.5 above. In the absence of the Chairman or the Monitoring Officer, the decision could be taken by the Vice-Chairman and Deputy Monitoring Officer respectively.

4.0 Corporate Implications

4.1 Financial and VAT

- 4.1.1 There are no financial implications to the report.

4.2 Legal

- 4.2.1 This change if adopted would allow the full consideration of matters related to employment and discipline of statutory senior staff on a confidential basis. These matters are by their very nature restricted and exposure of information from these meetings into the public domain can leave the Council liable to action by the employee and may also breach data protection principles.
- 4.2.2 Whilst there is a potential interference with the rights of Members to attend meetings of the Council, this can be justified when balanced against the potential loss to the Council from the accidental releasing of highly confidential information, or the

potential reputational damage this could cause for individual officers who are the subject of such reports.

4.2.3 There is no reason why Members cannot seek to address this by collective agreement and seek to rely on the good will of Members to see that this is properly adhered to.

4.3 Corporate

4.3.1 Corporately, it is important that the Council take data protection issues and access to meetings and information seriously.

4.4 Equity and Equalities

4.4.1 None apparent.

5.0 Recommendation(s)

5.1 The Working Party's instructions are sought as to whether to ask Council to come to a decision on whether General Purposes meetings that discuss "Human Resources Matters" should only be attended by those Councillors on the Committee itself and appropriate officers whose presence is necessary in order to conduct the business in question.

5.2 In addition, if the Working Party does decide to ask Council for such a decision then the Working Party should also consider:

- a) the criteria for what constitutes "Human Resources Matters" and whether the suggested criteria as defined in paragraph 3.5 is appropriate, and,
- b) who would make such a decision, as outlined in paragraph 3.6.

5.3 That any such decision taken is then included in the Council's constitution.

6.0 Decision Making Process

6.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable: Standards Committee Council	Date: 16 September 2014 2 October 2014
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Contact Officer:	Glenn Back, Democratic Services & Scrutiny Manager
Reporting to:	Paul Cook, Interim Director Corporate Resources

Annex List

None	
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Matthew Sanham – Finance Manager
Legal	Steve Boyle – Interim Legal Services Manager & Monitoring Officer

GIFTS AND HOSPITALITY

To: **Constitutional Review Working Party – 2 September 2014**

By: **Committee Services Manager**

Classification: **Unrestricted**

Summary: **To review the level at which Councillors should declare gifts and hospitality.**

For Decision

1.0 Introduction and Background

1.1 Councillors must currently declare any gift or hospitality or series of gifts or hospitality from the same donor that totals over £100. This level was set in line with the “Kent Code” which was a Kent wide draft code of conduct that was created in response to the changes needed as a result of the Localism Act 2011.

2.0 The Current Situation

2.1 When Councillors and members of the Standards Committee were last surveyed regarding the code of conduct one of the questions asked whether the £100 level at which gifts and hospitality had to be declared was too high and if so at what level it should be set at. Of the 28 responses to the questionnaire 15 wanted it decreased, 7 wanted it to remain the same, 1 wanted it increased and 5 did not answer the question. When asked regarding the level that it should be set at: 1 person said that any gift should be registered, 1 person said £10, 4 people said £25, 4 people said £50, 2 people said £100 and 1 person said £200.

2.2 We have also received indication from some Group Leaders that they would like to see a reduction in the level at which Councillors have to declare gifts and hospitality.

2.3 For comparison purposes Democratic Services have also conducted a small survey of neighbouring Councils to assess the levels at which they have set their level for the declaration of gifts and hospitality. The results of which are shown in Table 1 below. It is perhaps no surprise to find all using the £100 threshold, as that level was suggested in the draft Kent Code referred to above.

2.4 Table 1

Authority	Declaration of gifts and hospitality level
Ashford Borough Council	£100 or series amounting to £100
Canterbury City Council	£100 or series amounting to £100
Dover District Council	£100 or series amounting to £100
Shepway District Council	£100 or series amounting to £100

3.0 The view of the Monitoring Officer

- 3.1 It would seem that the level at which Members are required to declare gifts and hospitality comes from the Kent Model Code which was adopted by the majority of Kent authorities. That said it is for members to consider whether they think the level is appropriately set and if not to set a new level.
- 3.2 When setting the level it is worth Members considering the consequences. If the level is set too high then some low level gifts are not declared and whilst these might not seem important they may appear to the public to be of sufficient value to be viewed as significant. Similarly setting the level too low may place an onerous burden on Members to declare very small gifts on a regular basis.
- 3.3 The key point of this is the need to be both transparent and accountable and it is often not the actual value of a gift but the perception of it that can appear to the outside observer to be inappropriate.

4.0 Options

- 4.1 The Constitutional Review Working Party's views are sought on the whether they feel that the level at which gifts and hospitality should be declared by Councillors should be amended, and if so, what the new level should be.
- 4.2 If the Constitutional Review Working Party are inclined to recommend changes be made to the level at which gifts and hospitality are registered by Councillors, Democratic Services will present to the Standards Committee a draft amended version of both the Council's Code of Conduct and the Planning Protocol to reflect those proposed changes.

5.0 Corporate Implications

5.1 Financial and VAT

- 5.1.1 There are no financial or VAT implications to this report.

5.2 Legal

- 5.2.1 All Councillors have given written undertakings in accordance with Localism Act that they will observe the Council's Code of Conduct.
- 5.2.2 Failure to notify the Monitoring Officer of the receipt of a gift or hospitality is a breach of the Code of Conduct. An alleged breach of the Code can be the subject of a complaint to the Standards Committee which could result in the matter becoming the subject of the investigation and enforcement processes which could lead to the imposition of sanctions.

5.3 Corporate

- 5.3.1 The Council's code of conduct is a vital document in upholding the probity of the Council. Considering whether to reduce the level at which gifts and hospitality have to be registered also shows that the Council takes transparency seriously.

5.4 Equity and Equalities

5.4.1 There are no equity and equalities issues arising from this report.

6.0 Recommendation(s)

6.1 The Constitutional Review Working Party's views are sought on the issue.

7.0 Decision Making Process

7.1 Any recommendation of the Constitutional Review Working Party will be referred to the Standards Committee which, in turn, will make recommendations to Council for final adoption.

Future Meeting if applicable: Standards Committee Council	Date: 16 September 2014 2 October 2014
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Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Glenn Back, Democratic Services & Scrutiny Manager

Annex List

None	
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	Matthew Sanham – Corporate Finance Manager
Legal	Steve Boyle – Interim Legal Services Manager & Monitoring Officer

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CONSTITUTIONAL CHANGES: PROPOSED WRITTEN REPORT TO COUNCIL BY THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY PANEL

To: **Constitutional Review Working Party – 2 September 2014**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **N/A**

Summary: **To consider amendments to the constitution arising from the recommendation by the Working Party that Council receives a written report from the Chairman of the Overview and Scrutiny Panel at each of its ordinary meetings**

For Decision

1.0 Introduction and Background

1.1 When the report on a possible review of council procedure rules, particularly in relation to opportunities for backbench Members' participation at meetings of full council, was considered by the Working Party on 1 May 2014, it was AGREED TO RECOMMEND to Standards Committee:

1.1.1 (a) THAT no change to the Council Procedure Rules affecting Members' participation at meetings of full Council is made at the present time;

(b) THAT a written report for information be received at each ordinary meeting of Council from the Chairman of the Overview & Scrutiny Panel, providing that such reports were not open for debate.

1.1.2 THAT, prior to submitting recommendations at No. 1 above to the Standards Committee, a report be brought to the Working Party, outlining the necessary constitutional changes.

2.0 The Current Situation

2.1 The Working Party may wish to consider whether a new Council Procedure Rule 16.0, as set out at Annex 1, should be added to the constitution to enable written reports to be received by Council from the Chairman of the Overview and Scrutiny Panel.

3.0 Corporate Implications

3.1 Financial and VAT

3.1.1 None apparent

3.2 Legal

3.2.1 Any change in council procedures should be reflected in the constitution

3.3 Corporate

3.3.1 Written reports to Council by the Chairman of the Overview and Scrutiny Panel should result in a greater awareness by all Members of scrutiny activities being undertaken, and the role of overview and scrutiny in general.

3.4 Equity and Equalities

3.4.1 None apparent

4.0 Recommendation(s)

4.1 THAT the Working Party recommends to the Standards Committee that the amendments to the Council Procedure Rules, as outlined at Annex 1 or otherwise as it sees fit, be approved.

5.0 Decision Making Process

5.1 Recommendations from the Working Party are referred to Standards Committee, which, in turn, makes recommendations for final adoption by Council.

Future Meeting if applicable:	Date:
Standards Committee	16 September 2014
Council	2 October 2014

Contact Officer:	<i>Glenn Back, Democratic Services & Scrutiny Manager, ext 7187</i>
Reporting to:	<i>Paul Cook, Interim Director of Corporate Resources, ext 7617</i>

Annex List

Annex 1	Suggested amendments to Council Procedure Rules (new CPR 16)
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	<i>n/a</i>
Legal	<i>n/a</i>

EXTRACT, COUNCIL PROCEDURE RULE

TO ADD A NEW RULE NO. 16

15.0 Reports from the Cabinet and Committees**15.1 General**

Any Member wishing to speak on any recommendation of the Cabinet or a Committee to be considered by the Council shall, before 10.00 am on the day of the Council Meeting, notify the Member Services Manager of the number or other reference of the minute in question. Such minutes are in this Rule referred to as "Reserved Minutes".

15.2 Notice of Reserved Minutes

The Corporate Programme Manager shall not later than 12 noon on the day of any Council meeting notify the Leader and any relevant Chairmen (or in their absence the member acting) together with one nominated representative from each of the other groups which minutes have been reserved for debate and shall cause a list of the reserved minutes to be printed and placed before all Members at the Council meeting. No discussion shall be permitted on any minute which is not a reserved minute.

15.3 Adoption of Recommendations of the Cabinet

When at a Council Meeting the agenda item for considering the recommendations of the Cabinet and Committees is reached the Chairman and Vice-Chairman of the Council (or the members acting in that capacity if they or either of them is absent) shall propose and second the adoption of the recommendations of the Cabinet and Committees. The Chairman shall then put to the vote the adoption of the said recommendations with the exception of the reserved minutes.

After the vote on the adoption of the recommendations of the Cabinet and Committees have been taken the reserved minutes shall be dealt with.

15.4 Dealing with Reserved Minutes

After any debate on a reserved minute the Chairman shall then, if no amendment is made, put to the vote the adoption of the recommendation. The adoption of the recommendation shall in all cases be the substantive motion and any proposed alteration shall be by way of an amendment and be subject to the rules relating to amendments. The right of reply under Rule 19.9 and 19.11 shall be exercised by a member of the Cabinet or Chairman of the Committee whose recommendation is under discussion and that member shall not otherwise speak on the amendment.

16.0 Reports from the Overview and Scrutiny Panel

16.1 At each of its ordinary meetings, Council will receive a written report from the Chairman of the Overview and Scrutiny Panel. Such report will be for information only and may be introduced by the Chairman of the Overview & Scrutiny Panel, but otherwise not be subject to comment or debate.

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a Disclosable Pecuniary Interest and if so what action should I take?

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

Do I have a significant interest and if so what action should I take?

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
 - exercises functions of a public nature; or
 - is directed to charitable purposes; or
 - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992

If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the

matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

Gifts, Benefits and Hospitality

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £100 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services and Scrutiny Manager well in advance of the meeting.

DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS, SIGNIFICANT INTERESTS AND GIFTS, BENEFITS AND HOSPITALITY

MEETING.....

DATE..... AGENDA ITEM

DISCLOSABLE PECUNIARY INTEREST

SIGNIFICANT INTEREST

GIFTS, BENEFITS AND HOSPITALITY

THE NATURE OF THE INTEREST, GIFT, BENEFITS OR HOSPITALITY:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Democratic Services Officer when you are asked to declare any interests.