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Date: 9 December 2015
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CONSTITUTIONAL REVIEW WORKING PARTY

17 DECEMBER 2015

A meeting of the Constitutional Review Working Party will be held at **10.00 am on Thursday, 17 December 2015** in the Council Chamber, Cecil Street, Margate, Kent.

Membership:

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

Councillors: Hayton, Campbell, Elenor, Dixon, Jaye-Jones and Townend

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST**

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. **MINUTES OF PREVIOUS MEETING**

Minutes of the meeting of 2 December 2015 to follow.

4. **AMENDING COUNCIL PROCEDURE RULES REGARDING APPOINTMENTS OF CHAIRMEN** (Pages 1 - 6)

5. **COUNCIL PROCEDURE RULES** (Pages 7 - 32)

To consider and review the parts highlighted in yellow.

6. **ACCESS TO INFORMATION RULES** (Pages 33 - 46)

For Councillors' information

Item
No

Subject

Declaration of Interest form - back of agenda

REVIEW OF THE CONSTITUTION – ELECTION OF CHAIRMAN REVIEW

To: **Constitutional Review Working Party – 17 December 2015**

By: **Monitoring Officer**

Classification: **Unrestricted**

Summary: **This report outlines possible changes to the Constitution regarding the election of Chairmen.**

For Decision

1.0 Introduction and Background

- 1.1 In response to a recent Council meeting where there was a lack of clarity regarding the election of Chairmen to Committees, this paper suggests a number of options to amend the Council Procedure Rules, in order to prevent the lack of clarity from occurring again in the future.

2.0 The Current Situation

- 2.1 At the last meeting of Council on 3 December, the Council elected a new Chairman and Vice-Chairman of the Governance and Audit Committee were elected. Whilst the vote was carried out correctly, some members felt that greater clarity within the Constitution would have helped Councillors understanding of the process.
- 2.2 Therefore Democratic Services have created two options regarding the election of Chairmen. These are outlined below. The current Council Procedure Rules relating to the election of Chairmen are shown at Annex 1 to the report.

2.3 Option 1

- 2.3.1 The first option would be to remain with the existing arrangements, with amendments. I.e. that a Member makes a proposal nominating a Chair, a Member seconds the proposal and then there is a vote. If the proposal is passed then that person is elected, if not then the Chairman will then ask for another proposal and the same process is followed until such time as a person is elected.
- 2.3.2 The main amendment to this would be to clarify within the constitution who would be entitled to propose a motion first. The current arrangements are silent on this point and so the constitution could be interpreted that the person who catches the Chairman's eye first would get the first opportunity to make a proposal; this as demonstrated at Council can cause confusion and so it would be desirable to come up with alternative arrangements.
- 2.3.3 There are two main ways that this could be achieved, either amending the Constitution so the Leader of the Council (or a representative from the ruling group if not at full Council) or the Leader of the largest group (or a representative from the largest group if not at full Council)

2.4 Option 2

- 2.4.1 The alternative option would be to amend the procedures to accept multiple nominations at the same time. This would mean that when a vote on electing a chairman is called; multiple nominations (provided they were correctly seconded) could be received by the Chairman. If there were two nominations then the Chairman would ask those present to vote for candidate A or candidate B, whoever receiving the most votes winning. If there were more than 2 nominations then the Chairman would conduct a vote where those present could vote for any the candidates; after the vote the candidate with the fewest votes would be eliminated and the vote run again with the remaining candidates until only two remain, then the Chairman would ask those present to vote for candidate A or candidate B, whoever receiving the most votes winning.

2.5 Option 3

- 2.5.1 Constitutional Review Working Party could opt to retain the existing arrangements with no amendments, however this is not recommended as the current arrangements could be interpreted as a race to be seen by the Chairman in order to get their proposal considered first. This would be an unsatisfactory solution as it could cause a lack of clarity as described earlier in the report.

3.0 Next Steps

- 3.1 The Constitutional Review Working Party can choose any of the three options outlined within the report. If the Working Party do recommend either option one or option two, then Democratic Services will then create amendments to the Council Procedure Rules to reflect the recommendations made and present them to the next meeting of the Standards Committee.

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 Under section 37 of the Localism Act 2011, the Council must prepare and keep up to date a constitution, which contains:

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

- 4.2.2 The Council's Constitution says that a key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council and to make recommendations for ways it could be amended in order to better achieve its purpose.

4.3 Corporate

- 4.3.1 Reviewing the Council's Constitution is a key strand of the Council's Improvement Plan.

4.4 Equity and Equalities

4.4.1 There are no equity or equalities issues arising from the report.

5.0 Recommendation(s)

5.1 The Constitutional Review Working Party can either recommend option one or two to the Standards Committee, or choose option three and no further action will be taken.

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	Date: 21 January 2015
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Contact Officer:	Tim Howes, Head of Legal and Democratic Services and Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Current Council procedure rules covering election of Chairman
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation Undertaken

Finance	N/A
Legal	Tim Howes, Head of Legal and Democratic Services and Monitoring Officer

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6.0 Election of Chairman and Vice-Chairman of Committees

6.1 Appointment of Chairmen and Vice-Chairmen

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

6.2 Sub-Committees, Advisory Groups and Working Parties

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

6.3 Appointment of Chairmen and Vice-Chairmen of Scrutiny Panels

The Chairman and Vice-Chairman of any panel shall not both be from the same political group. The ruling group will have first chance to nominate the Chairman of the Scrutiny Panel.

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

6.4 Members not eligible to stand for election

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

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Part 4 - Rules of Procedure

Part 4 - Rules of Procedure

Council Procedure Rules

1.0 Meetings of the Council

1.1 Types of Council meeting

There may be three types of Council meeting:

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

1.2 Annual meeting of the Council

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

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

1.3 Extraordinary meetings

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

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

2.0 Agenda

2.1 Agenda for Annual Meeting

The annual meeting will consider the following:-

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

2.2 Agenda for Ordinary Meetings

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

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

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

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

2.3 Agenda for Extraordinary Meetings

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

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

No other business will be transacted.

2.4 Leaders Report

The Leader of the Council ~~may will~~ make available the content of his an oral report to opposition group leaders no later than the Saturday before the meeting. The speech will not exceed ten minutes on key issues arising since the last meeting of Council. ~~not exceeding ten minutes, on key issues arising since the last meeting of Council.~~

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

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

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

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

2.5 Related Items

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

2.6 Application to Committees

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

2.7 Budget-setting meetings of the Council

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

3.0 Motions and Amendments

Motions on Notice

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

Amendments

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

Putting the Motion at the Meeting

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

Scope

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

debated. Following the conclusion of the debate, the only action that may be taken is to refer the motion to Cabinet for consideration.

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

Rejecting Motions on Notice

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

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

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

4.0 Committees and Sub-Committees

4.1 Functions

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

4.2 Recommending Delegated Powers

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

4.3 Duration of Appointment

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

4.4 Political Balance

(i) Whenever:

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

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

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

~~4.5 Allocation of Seats to Political Groups~~

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

4.65 Appointment of Sub-Committees and Working Parties

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

4.76 Parent Committees

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

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

5.1 Allocation

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

5.2 Powers and duties

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

5.3 Substitution

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

5.4 Working Parties

These rules shall also apply to Working Parties.

6.0 Election of Chairman and Vice-Chairman of Committees

6.1 Appointment of Chairmen and Vice-Chairmen

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

6.2 Sub-Committees, Advisory Groups and Working Parties

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

6.3 Appointment of Chairmen and Vice-Chairmen of Scrutiny Panels

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

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

6.4 Members not eligible to stand for election

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

6.5 Vacancies

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

7.0 Time and Place of Meetings

7.1 Timings of Committee Meetings

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

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

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

8.0 Notice of and Summons to Meetings

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

9.0 Chair of Meeting

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

10.0 Quorum

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

11.0 Duration of Meeting

11.1 Adjournment

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

11.2 Remaining Business

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

12.0 Petitions from the Public

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

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

13.0 Questions by the Public and Press

13.1 General

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

13.2 Order of questions

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

13.3 Notice of questions

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

13.4 Number of questions

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

13.5 Scope of questions

The Chief Executive will reject a question if it:

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

13.6 Asking the question at the meeting

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

13.7 Absence of Member Named and Written answers

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

14.0 Questions by Members

14.1 On reports of the Cabinet or Committees

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

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

14.3 Questions on notice at full Council

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

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

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

14.4 Questions on notice at Committees and Sub-Committees

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

14.5 Notice of questions

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

14.6 Scope of questions

A question shall not be:

- defamatory, frivolous or offensive;

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

14.7 Response

An answer may take the form of:

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

14.8 Supplementary question

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

14.9 Timing

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

14.10 Written questions

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

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

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

15.0 Reports from the Cabinet and Committees

15.1 Reports from the Overview and Scrutiny Panel

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

16.0 Rules of debate

16.1 Motions Without Notice

The following motions may be moved without notice:

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

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

16.2 No speeches until motion seconded

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

16.3 Right to require motion in writing

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

16.4 Secunder's speech

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

16.5 Content and length of speeches

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

16.6 When a member may speak again

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

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

16.7 Amendments to motions

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

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

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

16.8 Alteration of motion

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

16.9 Withdrawal of motion

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

16.10 Right of reply

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

16.11 Motions which may be moved during debate

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

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

16.12 Closure motions

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

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

16.13 Point of order

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

16.14 Personal explanation

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

16.15 Motion to rescind a previous decision

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

16.16 Motion similar to one previously rejected

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

17.0 Voting

17.1 Majority

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

17.2 Chairman's casting vote

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

17.3 Show of hands

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

17.4 Recorded vote

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

17.5 Right to require individual vote to be recorded

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

17.6 Recorded votes at Council budget decision meetings

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

17.7 Voting on appointments

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

17.8 Section 106 of the Local Government Finance Act 1992

Where a Member has at least two months' arrears of Council tax he or she must not vote on any matter which:

- (i) Relates directly to the setting of the next year's Council Tax; or
- (ii) Recommends income or expenditure forming part of the next year's levy; or
- (iii) Relates to income or expenditure in the current year which is in excess of the current budget.

When a matter as described above is to be considered at a meeting, the Member affected must declare that section 106 of the Local Government Act 1992 applies to him or her. The Member may remain in the meeting and may speak, but he or she may not vote on the matter.

18.0 Minutes

18.1 Signing the minutes

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

18.2 Accuracy of minutes

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

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

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

19.0 Record of Attendance

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

20.0 Attendance at Meetings

20.1 General

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

This Rule shall not apply to the following bodies:-

Management Appraisal Board (when acting)

Licensing Board

Appeals Panel

General Purposes Committee when dealing with issues of officer conduct or
employment

Standards Committee

20.2 Attending meetings when Motions under Rule 15.3 will be discussed

A Member of the Council in whose name a motion under Rule 15.3 has been referred by Council to another Committee shall have notice of the meeting of the Committee, Sub-Committee or Working Party at which it is proposed to consider the motion and

he/she, or in his/her absence his/her seconder, shall have the opportunity of speaking to explain the motion and taking part in the debate.

20.3 Attendance of Chairmen/Vice-Chairmen of Committees

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

20.4 Meetings of the Cabinet

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

21.0 Special Meetings of Committees

~~Subject to the provisions of Rules 6 and 7:~~

21.1 Calling special meetings

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

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

21.2 Business

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

21.3 Timing

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

22.0 Exclusion of Public

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

23.0 Members' Conduct

23.1 Standing to speak

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

23.2 Chairman standing

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

23.3 Member not to be heard further

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

23.4 Member to leave the meeting

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

23.5 General disturbance

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

24.0 Disturbance by Public

24.1 Removal of member of the public

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

24.2 Clearance of part of meeting room

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

25.0 Suspension and Amendment of Council Procedure Rules

25.1 Suspension

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

25.2 Amendment

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

26.0 Application to Committees and Sub-Committees

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

27.0 Members' Correspondence

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

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

28.0 Urgent Action by or on Behalf of Committees/Boards

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

29.0 Use of mobile telephones during public meetings

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

30.0 Audio and Visual recordings of Council Meetings

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

Access to Information Procedure Rules

1.0 Scope

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

2.0 Additional Rights to Information

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

3.0 Rights to Attend Meetings

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

4.0 Notices of Meeting

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

5.0 Access to Agenda and Reports before the Meeting

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

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

6.0 Items of Business

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

- a) a copy of the agenda including the item (or a copy of the item) is published on the Council's website and open to inspection by a member of the public for at least five clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
- b) by reason of special circumstances, which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

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

6.3 Where the item of business relates to a Key Decision, Rules 16, 17 and 18 also apply.

7.0 Supply of Copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Democratic Services Manager thinks fit, any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other costs or electronically at no charge. A reasonable number of copies of the agenda and reports will be made available at the meeting.

8.0 Access to Minutes etc after the Meeting

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

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

9.0 Background Papers

9.1 List of background papers

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 11) and in respect of Cabinet reports, the advice of a political assistant.

9.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers. As far as Cabinet decisions are concerned, the Council will also publish on its website any background papers that are included in the list.

10.0 Public's Rights

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

11.0 Exclusion of Access by the Public to Meetings

11.1 Confidential information – requirement to exclude public

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

11.2 Exempt information – discretion to exclude public

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

exempt information), the description of exempt information giving rise to the exclusion of the public.

11.3 Meaning of confidential information

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

11.4 Meaning of exempt information

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

N.B. The full rules are set out in Part V and Schedule 12A Local Government Act 1972 (as Amended)

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

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

3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).

a) Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests;

b) Information is not exempt if it is required to be registered under:

- Companies Act 1985;
- Friendly Societies Acts 1974 and 1992;
- Industrial and Provident Societies Acts 1965 to 1978;
- Building Societies Act 1986;
- Charities Act 1993.

c) The rights of access by Members are contained in Section 1007 of the 1972 Act.

4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a

Minister of the Crown and employees of, or office holders under, the Authority. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

6. Information which reveals that the authority proposes

a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

b) to make an order or direction under any enactment. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

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

Disclosure by Members

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

12.0 Exclusion of Access by the Public to Reports

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

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

13.0 Review of confidential / exempt information

13.1 A confidential / exempt report or part of report will be reviewed by the Monitoring Officer one year after the ultimate decision-taking body has considered it. If, upon that review, a report or part of report is still treated as exempt, the report or part of report will be subject to a further similar review on the third anniversary of the first review.

13.2 The reviews referred to in paragraph 13.1 above do not apply to decisions taken by the Standards Committee or its sub-committees.

13.3 The Monitoring Officer will publish his decision on each review, giving reasons for such decision.

13.4 The Monitoring Officer will submit to the Council an annual report containing details of decisions reviewed, such report to include the reasons wherever it is considered not possible to release the report/information to the public.

14.0 Reporting of proceedings at Cabinet meetings

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

15.0 Procedure prior to a Private Meeting of Cabinet

15.1 Subject to 15.2, a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:

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

Gateway Plus, Cecil Street, Margate at least five clear working days before the meeting; such notice to include:

- i. a statement of the reasons for the meeting to be held in private;
- ii. details of any representations received by the Cabinet not later than 14 calendar days in advance of the meeting about why the meeting should be open to the public; and
- iii. a statement of its response to any such representations, which will be decided upon by the Leader in consultation with the Monitoring Officer.

15.2 Where the date by which a Cabinet meeting must be held makes compliance with Rule 15.1 impracticable, the meeting, or part of the meeting, may only be held in private where Cabinet has obtained agreement from:

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

16.0 Publicity in connection with key decisions

Subject to Rule 18 (general exception) and Rule 19 (special urgency), a key decision may not be taken unless:

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

17.0 The Forward Plan and Exempt Cabinet Report List

17.1 Contents of forward plan and exempt cabinet report list

The Forward Plan and Exempt Cabinet Report List will contain matters which will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of an Executive function It will provide the following details:

- (a) that a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and a list of its members;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker;
- (h) the procedure for requesting details of those documents (if any) as they become available.

The Forward Plan and Exempt Cabinet Report List must be published on the Council's website and at Thanet Gateway at least 28 clear days before a key decision is made. Where in relation to any matter, the public may be excluded under Rule 11 from the meeting at which the matter is to be discussed, or the documents relating to the decision need not by virtue of Rule 12 be disclosed to the public, the forward plan and exempt cabinet report list must contain particulars of the matter but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

18.0 General Exception

18.1 Subject to Rule 19 (special urgency), where the publication of the intention to make a key decision under Rule 16 is impracticable, that decision may only be made:

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

18.2 Where Rule 18.1 applies to any matter, Rule 16 need not be complied with in relation

to that matter.

18.3 As soon as reasonably practicable after the proper officer has complied with Rule 18.1, he or she must make available at Thanet Gateway Plus, Cecil Street, Margate a notice setting out the reasons why compliance with Rule 16 is impracticable and publish that notice on the Council's website.

19.0 Special Urgency

19.1 Where the date by which a key decision must be made makes compliance with Rule 18 impracticable, the decision may only be made where the decision maker has obtained agreement from

- (a) the Chairman of the Overview and Scrutiny Committee, or
- (b) if there is no such person, or if the chairman of the Overview and Scrutiny Committee is unable to act, the chairman of Council; or
- (c) where there is no Chairman of either the relevant Overview and Scrutiny Committee or Council, the Vice-Chairman of Council that the making of the decision is urgent and cannot reasonably be deferred.

19.2 As soon as reasonably practicable after the decision maker has obtained agreement under Rule 19.1 that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must make available at Thanet Gateway Plus, Cecil Street, Margate a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

19.3 Provision of urgent reports to Ward Members

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

19.3.2 In cases where the content of the report on the urgent decision is exempt within the meaning of Schedule 12A of the Local Government Act 2000 and that exemption does not relate to commercial or contractual matters, Ward Members will be notified of the decision as soon as the decision has been taken, but without disclosure of the exempt matters (for example, if the exemption relates to the identification of individual or personal matters, those details will not be disclosed until after the decision has been implemented);

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

20.0 Report to Council

20.1 When an Overview and Scrutiny Committee can require a report

Where an executive decision has been made and:

- (a) was not treated as being a key decision; and
- (b) a relevant Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision, that Overview and Scrutiny Committee may require the executive which is responsible for the decision to submit a report to Council within such reasonable period as the committee may specify.

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

20.2 Cabinet's report to Council

The Cabinet will prepare a report under Rule 20.1 for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 5 working days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that. The report must include details of:

- (a) the decision and reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Cabinet are of the opinion that the decision was not a key decision, the reasons for that opinion.

20.3 Quarterly reports on special urgency decisions

The Leader of the Council will submit to the Council quarterly reports containing details of each executive decision taken during the period since the last report was submitted to the Council where the making of the decision was agreed as urgent in accordance with Rule 19 (special urgency).

21.0 Recording of executive decisions made at meetings

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

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

22.0 Recording of executive decisions made by Individual Members of the Cabinet and Officers

22.1 Recording of executive decisions made by Individual Members of the Cabinet

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

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

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

22.2 Recording of executive decisions made by Officers

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

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

~~22.3 Reports intended to be taken into account~~

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

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

23.0 Rights of access to documents for members of the Overview and Scrutiny Committee

23.1 Subject to Rule 23.3 below, an Overview and Scrutiny Committee will be entitled to a copy of any document which is in the possession or under the control of the Cabinet or its Committees and which contains material relating to

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

23.2 Subject to Rule 23.3 below, where a member of an Overview and Scrutiny Committee requests a document which falls within Rule 23.1, the Cabinet must provide that document as soon as reasonably practicable and in any case no later than 10 clear days after the Cabinet receives the request.

23.3 Limit on rights

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

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:
 - i) an action or decision that that member is reviewing or scrutinising

- ii) any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant

Where the Cabinet determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in Rule 22.1 or 22.3, the Cabinet Leader in conjunction with the Monitoring Officer will write to all Members of the Overview and Scrutiny Committee, setting out the reasons for that decision.

23.4 Additional rights

The rights described in Rule 23 and 24.1 shall apply also in relation to non-Executive functions dealt with by the Council and any regulatory or other Committees and Sub- Committees.

24.0 Additional Rights of Access to documents for Members of the Council

24.1 Subject to Rules 24.5 and 24.6, any document which:

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

24.2 Any document which is required by Rule 24.1 to be available for inspection by any Member of Council must be available for such inspection for at least five clear days before the meeting except that:

- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 24.1 in relation to that item, must be available for inspection when the item is added to the agenda.

24.3 Subject to Rules 24.5 and 24.6, any document which:

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains any material relating to:

- i. any business transacted at a private meeting or part of a meeting held in private;

- ii. any decision made by an individual member in accordance with executive arrangements;
or
- iii. any decision made by an officer in accordance with executive arrangements

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

24.4 Any document which is required by Rule 24.3 to be available for inspection by any Member of Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

24.5 Rules 24.1 and 24.3 do not require a document to be available for inspection if it appears to the ~~proper~~ Monitoring eOfficer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (descriptions of exempt information: England).

24.6 Notwithstanding Rule 24.5, Rules 24.1 and 24.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

- (a) paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the Local Government Act 1972.

24.7 Where it appears to the proper officer that compliance with Rules 24.1 or 24.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that paragraph will not apply to that document or part.

24.8 The rights conferred by Rules 24.1 and 24.3 are in addition to any other rights that a member of a local authority may have.

24.9 Agendas and Reports

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

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

DISCRETIONARY 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.

