

# **MEETING OF THE COUNCIL**



**Thursday, 6th February, 2020**

**7.00 pm**

**Council Chamber  
Thanet District Council  
Margate**

**[www.thanet.gov.uk](http://www.thanet.gov.uk)  
01843 577000**



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Date: 27 January 2020  
Ask For: James Clapson  
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You are hereby summoned to attend the meeting of the Thanet District Council to be held in the Council Chamber, Council Offices, Cecil Street, Margate, Kent on Thursday, 6 February 2020 at 7.00 pm for the purpose of transacting the business mentioned below.

*Timothy Howes*

Director of Corporate Governance

To: The Members of Thanet District Council

**FIRE ALARM PROCEDURES:** If the fire alarm is activated, please vacate the offices via the stairs either through the security door to the left of the Chairman or opposite the lifts in the foyer. Please do not use the lifts. Please assemble in Hawley Square on the green. Officers will assist you and advise when it is deemed safe to return to the Chamber.

## **AGENDA**

Item  
No

1. **APOLOGIES FOR ABSENCE**

2. **MINUTES OF THE PREVIOUS MEETING** (Pages 5 - 16)

To approve the Minutes of the meeting of Council held on 5 December 2019, copy attached.

3. **ANNOUNCEMENTS**

To receive any announcements from the Chairman, Leader, Members of the Cabinet or Chief Executive in accordance with Council Procedure Rule 2.2 (iv).

4. **DECLARATIONS OF INTEREST** (Pages 17 - 18)

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)

5. **2020-21 TREASURY MANAGEMENT STRATEGY** (Pages 19 - 56)

6. **2020-21 BUDGET**

Report to follow.

Item  
No

Subject

7. **MEMBERS ALLOWANCES SCHEME 2020/21** (Pages 57 - 72)
8. **STANDING ORDERS IN RELATION TO STAFF** (Pages 73 - 104)

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## COUNCIL

**Minutes of the meeting held on 5 December 2019 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.**

**Present:** Councillor Jason Savage (Chairman); Councillors Albon, Ara, Ashbee, Bailey, Bambridge, J Bayford, R Bayford, Boyd, Campbell, Coleman-Cooke, Crittenden, Currie, Day, Dennis, Dexter, Duckworth, Cllr Everitt, Fellows, Cllr Game, Garner, Green, Gregory, Hart, Hopkinson, Huxley, Keen, Kup, Pat Moore, Ovenden, Parsons, L Piper, Cllr Rev. S Piper, Potts, Pugh, Rawf, Rogers, Cllr Roper, Rusiecki, D Saunders, M Saunders, Scobie, Scott, Shrubbs, Taylor, Tomlinson, Towing, Whitehead, Wing, Wright and Yates.

### 1. **APOLOGIES FOR ABSENCE**

Apologies were received from Councillors; Braidwood, Constantine, Farrance, Green, Paul Moore and Stevens.

### 2. **MINUTES OF THE PREVIOUS MEETINGS**

#### (a) **Minutes of the Extraordinary Meeting 7 October 2019**

It was proposed by the Chairman, seconded by the Vice-Chairman and agreed, that the minutes of the extraordinary Council meeting held on 7 October 2019 be approved and signed by the Chairman.

#### (b) **Minutes of the Meeting 10 October 2019**

It was proposed by the Chairman, seconded by the Vice-Chairman and agreed, that the minutes of the Council meeting held on 10 October 2019 be approved and signed by the Chairman.

#### (c) **Minutes of the Extraordinary Meeting 10 October 2019**

It was proposed by the Chairman, seconded by the Vice-Chairman and agreed, that the minutes of the extraordinary Council meeting held on 10 October 2019 be approved and signed by the Chairman.

### 3. **ANNOUNCEMENTS**

There were no announcements.

### 4. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

### 5. **PETITIONS**

#### (a) **Cabinet Response to Petition on Save Our NHS in Kent Judicial Review**

Members noted the report.

### 6. **QUESTIONS FROM THE PRESS AND PUBLIC**

#### (a) **Question No.1 - Land at Tivoli Park Avenue**

Ms Garfield asked Councillor Yates the following question:

“The 'official copy of register of title' for Tivoli Park Avenue sold by yourselves clearly shows that there is a restrictive covenant attached to this land. As its statutory successor and the legal enforcers of this covenant, can you explain why you purported that the land does not have one?”

Councillor Yates responded with the following points:

- The last paragraph of the answer given at the Council meeting in September had not been entirely clear.
- The Council owned various parcels of land around Tivoli Park Avenue and some had been sold.
- One of the pieces of land contained a restrictive covenant, imposed by the people who sold the land to the Borough of Margate.
- The covenant stated that the land should be used as public park gardens or recreation space.
- When selling various parcels of this land, the Council had complied with all the necessary legal requirements, including advertising it's intention to sell.
- The Council could not enforce the covenant. Only the original sellers (or their successors) who imposed the covenant initially were entitled to enforce it.
- The Council sold the land at auction with limited title guarantee.

(b) **Question No.2 - Recycling facilities for Westbrook Flats**

The questioner was unavailable to put the question to Council, therefore it would be responded to in writing.

(c) **Question No.3 - Government Grants**

The questioner was unavailable to put the question to Council, therefore it would be responded to in writing.

## 7. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

(a) **Question No.1 - Broadstairs Neighbourhood Plan**

Councillor Bailey asked the Leader the following question:

“The community has spent four years drafting and preparing a Neighbourhood Plan for Broadstairs and St Peter's. The plan was successfully examined by an Independent Examiner and only minor changes were required.

When will Thanet District Council proceed to put the plan forward to Local Referendum?”

The Leader responded with the following points:

- The National Planning Policy Framework required local planning authorities to ensure that Neighbourhood Plans were consistent with Local Plans and that they conformed with national criteria and guidelines. If the council failed to adhere to this duty it could potentially be subject to Judicial Review.
- The draft Broadstairs and St Peter's Neighbourhood Plan had been examined in public and the examiner's report had been sent to the Council. The examiner recommended a number of modifications to the plan.
- The Council's Cabinet considered the draft neighbourhood plan at its meeting on 25 July 2019, and decided to consult the local community about two proposed local green spaces that were considered to not meet the national criteria for designation.

- The consultation had been completed and a further report would be considered by Cabinet on 16 December 2019. The report would include an option to refer the plan back to examination to reconsider the two proposed local green spaces prior to proceeding to a referendum.

Councillor Bailey followed up her question by asking why, in the spirit of localism, the local plan had been given such as precedence over the Broadstairs neighbourhood plan with regard to the two proposed local green spaces.

The Leader responded that the Council needed to protect itself from judicial review and would need to evidence that the sites met the criteria for designation as local green space.

(b) **Question No.2 - Council Housing Stock**

Councillor Pugh asked Councillor Whitehead the following question:

“The health and safety failings that were identified some months ago of East Kent Housing is a grave failure of the council’s duty of care towards its tenants. With their safety being of the utmost priority, what is this Council doing to bring our housing stock directly back under control.”

Councillor Whitehead responded with the following points:

- The health and safety of residents and tenants was paramount.
- Cabinet wished to reduce reliance on arms length organisations. On 17 October it approved a formal consultation with all tenants and leaseholders. Consultation was a specific legal requirement of Section 105 of the Housing Act 1985.
- The consultation would be completed on the 20th of December, and a report would be considered by Cabinet in February 2020.
- The Council would continue to hold weekly meetings with East Kent Housing to keep a continued and constant focus on improvement.
- The Council worked with the regulator for social housing and with expert external consultants, to ensure that everything possible was done to remedy the failures as quickly as possible.
- The Council’s role was to serve and provide for residents. The health and safety of residents and tenants was a fundamental duty and of paramount importance.

Councillor Pugh followed up his question by asking what had changed since the labour administration had taken control of the Council.

Councillor Whitehead responded that her motion was put before Council in October to highlight the need to bring the management of the Council’s housing stock in-house. The statutory regulations would be followed to the letter to ensure that nothing impeded the work that needed to be done.

(c) **Question No.3 - Parking Charges**

The question was withdrawn at the request of the questioner.

**8. NOTICE OF MOTION**

There were no notices of motions.

**9. LEADERS REPORT**

During his report the Leader covered the following areas:

- The Leader offered thanks to the Chamber for the opportunity to lead the Council.

- It was clear that addressing the condition of the public toilets in the District was a top priority.
- Congratulations were offered to Councillor Game on becoming leader of the Conservative group.
- Congratulations were offered to Councillor Ara who was named Community Champion Winner in the LGiU and CCLA 2019 Councillor Achievement Awards.
- The Leader joined Councillor Ara at the annual remembrance Sunday event in Ramsgate.
- The approach to budget setting had been open and transparent, the budget would reflect the priorities of residents.
- The Leader had visited Manston and had seen the scale of the Brexit operation there.
- The Council supported the proposed Parkway Station development. There would be a Member's briefing on the latest proposals.
- The Ramsgate Port feasibility study would be available soon.
- Congratulations were offered to everyone involved in the Turner Prize and Dreamland's deserved recognition for it's contribution to proceedings.

Councillor Game as Leader of the Conservative Party responded with the following points:

- Councillor Bayford deserved thanks for this work as the previous Leader of the Council.
- Praise should be offered for the cleanliness of Margate during the Turner prize.
- Congratulations were offered to Councillor Ara.
- There was a need to form a Town Council in Margate.
- Thanks were offered to the finance team who had provided a number of in depth briefings for Members on the budget.
- Everyone agreed that the health and safety of housing tenants was paramount.
- It was hoped that Manston would become a working airport.
- The majority of Cliffsend residents were not in favour of the Parkway Station proposals, there would need to be a wide consultation.
- The Turner Prize had been a boost to Margate and the wider Thanet area.

The Leader replied to Councillor Game's comments with the following points:

- Councillor Bayford deserved thanks for his time as Leader of the Council.
- There needed to be a wide consultation on the Parkway Station proposals. Some residents of Cliffsend were keen on the idea.

Councillor Reverend Piper as leader of the Thanet Independents Party made the following points:

- There had been some good collaborative working since the Labour administration came into control.
- The finance briefings had been very good.
- A Parkway Station would be good for Thanet.
- Thanks were offered to the Chief Executive for her responses to questions raised at the November Cabinet meeting.
- There should be no additional financial risk resulting from a competitive tender for the replacement of berths four and five at the Port of Ramsgate. These cost should have been accounted for when the replacement of the berths were first agreed.

The Leader replied to Councillor Reverend Piper's comments with the following point:



- It was good that the three main political groups were of the same understanding regarding the need to replace the berths at the Port.

Councillor Roper as Leader the Green Party made the following points:

- Councillor Roper welcomed the new Leader and Councillor Game to their positions of leadership, he hoped to work in trust and harmony with them.
- Congratulations were offered to Councillor Ara.
- It was hoped that funding would be found to improve the public toilets before next tourist season.
- Officers deserved thanks for their work with Members around the budget.
- It was good that the East Kent Housing issues looked to be heading to a conclusion, attention should be given to safety standards.
- The amount of money spent at Manston in preparation for Brexit was disturbing and offered no benefit to Thanet.
- If it was possible, the cost of the Parkway Station proposal could be better spent improving transport within the District.
- The near completion of the feasibility study at Port was welcome, the conclusion should be widely shared and supported.
- Margate was the biggest winner of the Turner Prize, through the publicity that the event generated.
- It was requested that the Leader included a climate emergency update as a regular part of his leaders report.
- Councillor Roper wished everyone a happy Christmas.

The Leader replied to Councillor Roper's comments noting that:

- The climate emergency was an important issue, the working group had met today (5 December).
- A lot of the increased projected cost in relation to the Parkway Station proposal was connected to improvements at two level crossings. The money invested in the Station would not come to Thanet if the proposal did not go ahead.

Councillor Scobie left the meeting during this item.

### **10. REPORT OF THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY PANEL**

Councillor Campbell, the Vice-Chairman of the Overview and Scrutiny Panel, presented the report and the following points were noted:

- There had been one Panel meeting since the last meeting of Council, the main item discussed was the provision of traveller sites in Thanet.
- The Panel rejected the sites recommended by the Traveller Review Working Party and recommended to Cabinet that further work be undertaken, that included extensive public consultation.
- Future topics to be considered by the Panel were: The future management of housing stock in January, and a service review of operational services in February.

Members noted the report.

### **11. 2019-20 MID-YEAR TREASURY MANAGEMENT REVIEW**

It was proposed by Councillor Yates, seconded by Councillor Albon and Members agreed the recommendations detailed in the report, namely;

“That Council:

- Approves this report and the prudential and treasury indicators that are

- shown,
- Approves the proposed changes to the 2019-20 Treasury Management Strategy Statement.”

## 12. FEES AND CHARGES

It was noted that in accordance with council procedure rule 17.6, a recorded vote would be taken on the motion or any amendments and substantive motions.

It was proposed by Councillor Yates and seconded by Councillor Albon that:

“Council approve the Fees and Charges as listed in Annex 1 of the report.”

The Monitoring Officer conducted a recorded vote on the motion as follows:

49 Members voted in favour the motion: Councillors Albon, Ara, Ashbee, Bailey, Bambridge, B Bayford, J Bayford, Boyd, Campbell, Coleman-Cooke, Crittenden, Currie, Day, Dennis, Dexter, Duckworth, Everitt, Fellows, Game, Garner, Gregory, Hart, Hopkinson, Huxley, Keen, Kup, Pat Moore, Ovenden, Parsons, L Piper, S Piper, Potts, Pugh, Rawf, Rogers, Roper, Rusiecki, D Saunders, M Saunders, Savage, Scott, Shrubbs, Taylor, Tomlinson, Towning, Whitehead, Wing, Wright, Yates.

0 Members voted against the motion.

0 Member abstained from voting on the motion.

The motion was carried.

## 13. APPOINTMENT OF AN EAST KENT JOINT REMUNERATION PANEL

It was proposed by Councillor Duckworth, seconded by Councillor Yates and Members agreed the recommendations detailed in the report, namely;

- To confirm the Council’s continued participation in the East Kent Joint Independent Remuneration Panel (EKJIRP) until 30 November 2023.
- To appoint Mrs Kerry Sabin-Dawson and Mrs Sue Longden as Thanet District Council’s representatives on the EKJIRP for a four year term expiring on 30 November 2023.

## 14. REPRESENTATION ON OUTSIDE BODIES

The Leader proposed, Councilor Yates seconded and Members agreed the list of non-executive outside bodies with the following nominations:

Name of Outside Body	No. of Reps	Representatives 2019/20
Action with Communities in Rural Kent	2	1. 2.
Age UK: Thanet	1	
Campaign to Protect Rural England	1	
Canterbury Festival	1	Whitehead
Citizens Advice Bureau, Thanet	2	1.Rawf 2.Keen
East Kent Housing Board	1	

Millmead Children's Centre Partnership Ltd	1	Duckworth
Multiple Sclerosis Society	1	Gregory
Parking and Traffic Regulation Outside London	1	
Powell Cotton Museum and Quex House	1	
(The) River Stour (Kent) Internal Drainage Board	1	Parish Cllr Crow-Brown
Sandwich and Pegwell Bay National Nature Reserve Steering Group	1	Huxley
Thanet Countryside Trust	2	1. 2.
Thanet Rural Regeneration Group	1	Wright
Thanet Sports Network	1 <small>+reserve</small>	1.Garner 2.Scott (reserve)
Thanet Volunteer Bureau	1	Scott
The Friends of Margate Cemetery Trust	2	1.Tomlinson 2.Yates
Trust for Thanet Archaeology	2	1. Wright 2.Whitehead
Youth Advisory Group (formerly, Concorde Youth Centre)	1	Kup

## 15. CHANGES TO COMMITTEES, PANELS AND BOARDS 2019/20

It was proposed by the Chairman, Seconded by the Vice-Chairman and Members agreed to create a Standards Appointments Working Party with a membership of four Members, and a political balance of two Conservative Members, one Labour Member and one Thanet Independents Member.

Members noted the following nominations to committees, panels and boards for the remainder of the 2019/20 year:

### Planning Committee

Conservative		Labour		Thanet Independents		Green	
1	Tomlinson	1	Duckworth	1	Taylor	1	Garner
2	Coleman-Cooke	2	Scobie	2	Dennis		
3	J Bayford	3	Albon				
4	Wright	4	Keen				
5	Hart	5	Currie				
6	Scott						

### Planning Committee (*pool of substitute Members*)

Conservative		Labour		Thanet Independents		Green	
1	Towning	1	Everitt	1	Rusiecki	1	Roper
2	Stevens	2	Campbell	2	S. Piper		

3	Paul Moore	3	Pat Moore				
4		4	Green				
5		5					

**Licensing Board**

Conservative		Labour		Thanet Independents		Green	
1	Bambridge	1	Currie	1	Potts	1	Wing
2	Rogers	2	Green				
3	Dexter	3	Ara				
4	M Saunders	4	Scobie				
5	Wright	5	Huxley				
6	Shrubb						

**Overview & Scrutiny Panel**

Conservative		Labour		Thanet Independents		Green	
1	R Bayford	1	Campbell	1	L Piper	1	Roper
2	Boyd	2	Huxley	2	Rusiecki		
3	Coleman-Cooke	3	Gregory				
4	Paul Moore	4	Pat Moore				
5	Parsons	5	Hopkinson				
6	Scott						

**Governance and Audit Committee**

Conservative		Labour		Thanet Independents		Green	
1	Day	1	Crittenden	1	Braidwood	1	Garner
2	Dexter	2	Moore				
3	Boyd	3	Campbell				
4	Kup	4	Currie				
5	Shrubb	5	tbc				
6	Towning						

**Governance and Audit Committee** *(Pool of Substitute Members)*

Conservative		Labour		Thanet Independents		Green	
1	Pugh	1		1	Potts	1	Roper
2	Scott	2					
3		3					
4		4					

**General Purposes Committee**

Conservative		Labour		Thanet Independents		Green	
1	Game	1	Campbell	1	S Piper		
2	Pugh	2	Everitt				
3	Stevens	3	Rawf				
4	Day	4	Ovenden				
5	D Saunders						

**General Purposes -** *(Pool of Substitute Members)*

Conservative		Labour		Thanet Independents		Green	
1	Wright	1	Albon	1	Braidwood		
2	Dexter	2	Pat Moore				
3	Rogers	3	Scobie				
4		4					
5							

**Boundaries and Electoral Arrangements Working Party**

Conservative		Labour		Thanet Independents		Green	
1	Parsons	1	Currie	1	S Piper		
2	Moore	2	Green				
3	Stevens						

## Constitutional Review Working Party

Conservative		Labour		Thanet Independents		Green		Independent Members (non Councillors) *	
1	Stevens	1	Hopkinson	1	Piper			1	Sexton
2	Tomlinson							2	Vacant

NOTE: \*drawn from the Independent Members of the Standards Committee

## Standards Committee

Conservative		Labour		Thanet Independents		Green		Independent Members (non Councillors) *	
1	Kup	1	Campbell	1	Braidwood			1	Sexton
2	Dexter	2	Duckworth					2	Vacant
3	Fellows	3	Crittenden					3	Vacant
4	J Bayford							4	Vacant

## Joint Transport Board

Conservative		Labour		Thanet Independents		Green	
1	M Saunders	1	Scobie	1	Taylor		
2	Fellows	2	Farrance				
3	Hart	3	Keen				

## East Kent Services Committee

Labour		Conservative		Thanet Independents		Green	
1	Everitt						
2	Whitehead						

## Standards Appointments Working Party

Conservative		Labour		Thanet Independents		Green	
1	Fellows	1	Scobie	1	Dennis		

**16. REARRANGEMENT OF JANUARY 2020 PLANNING COMMITTEE**

It was proposed by the Chairman, seconded by the Vice-Chairman and Members agreed that 15 January 2020 Planning Committee meeting be moved to 22 January 2020.

Meeting concluded: 8.05 pm

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## **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 £25 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 Committee Services Manager well in advance of the meeting.

If you need to declare an interest then please complete the declaration of [interest form](#).

**TREASURY MANAGEMENT STRATEGY STATEMENT,  
MINIMUM REVENUE PROVISION POLICY STATEMENT  
AND ANNUAL INVESTMENT STRATEGY FOR 2020-21**

Council	<b>6 February 2020</b>
Report Author	<b>Tim Willis, Deputy Chief Executive &amp; Section 151 Officer</b>
Portfolio Holder	<b>Councillor Rob Yates, Cabinet Member for Financial Services and Estates</b>
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>
Previously Considered by	<b>Governance &amp; Audit Committee - 3 Dec 2019 Cabinet - 14 January 2020</b>

**Executive Summary:**

This report and annexes includes the proposed Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement, Annual Investment Strategy, Capital Strategy and Non-Treasury Investments Report for 2020-21

**Recommendation:**

That council approves this report and annexes.

**CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	The financial implications are highlighted in this report and annexes.
<b>Legal</b>	Section 151 of the 1972 Local Government Act requires a suitably qualified named officer to keep control of the council's finances. For this council, this is the Deputy Chief Executive, Tim Willis, and this report and annexes is helping to carry out that function.
<b>Corporate</b>	Failure to undertake this process will impact on the council's compliance with the Treasury Management Code of Practice.

<b>Equalities Act 2010 &amp; Public Sector Equality Duty</b>	<p>There are no equity and equalities implications arising directly from this report and annexes, but the council needs to retain a strong focus and understanding on issues of diversity amongst the local community and ensure service delivery matches these.</p> <p>It is important to be aware of the council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration had been given to the equalities impact that may be brought upon communities by the decisions made by council.</p>
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<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
Growth	✓
Environment	✓
Communities	✓

## 1 INTRODUCTION

### 1.1 Background

The council is required to operate a balanced budget, which involves cash being received and expended during the year. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low risk counterparties or instruments commensurate with the council's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the treasury management service is the funding of the council's capital plans. These capital plans provide a guide to the borrowing need of the council, essentially the longer-term cash flow planning, to ensure that the council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans, or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet council risk or cost objectives.

The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to

ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities (arising usually from capital expenditure) and are separate from the day to day treasury management activities.

CIPFA defines treasury management as:

*“The management of the local authority’s borrowing, investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*

Revised reporting has been required since the 2019-20 reporting cycle in accordance with revisions to the MHCLG Investment Guidance, the MHCLG Minimum Revenue Provision (MRP) Guidance, the CIPFA Prudential Code and the CIPFA Treasury Management Code. The primary reporting changes include the introduction of a capital strategy, to provide a longer-term focus to the capital plans, and greater reporting requirements surrounding any commercial activity undertaken under the Localism Act 2011. The capital strategy is an annex to this report.

## **1.2 Reporting requirements**

### **1.2.1 Capital Strategy**

The CIPFA revised 2017 Prudential and Treasury Management Codes require all local authorities to prepare reports which will provide the following:

- a high-level long term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- an overview of how the associated risk is managed
- the implications for future financial sustainability

The aim of this is to ensure:

- that all elected members on the full council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.
- the separation of the core treasury function under security, liquidity and yield principles, and the policy and commercialism investments usually driven by expenditure on an asset.

For this council, these additional reports are the Capital Strategy and the Non-Treasury Investments Report.

## 1.2.2 Treasury Management reporting

The council is currently required to receive and approve, as a minimum, three main treasury reports each year, which incorporate a variety of policies, estimates and actuals.

- a. **Prudential and treasury indicators and treasury strategy** (this report) - The first, and most important report is forward looking and covers:
  - the capital plans, (including prudential indicators);
  - a minimum revenue provision (MRP) policy (how residual capital expenditure is charged to revenue over time);
  - the treasury management strategy (how the investments and borrowings are to be organised) including treasury indicators; and
  - an investment strategy, (the parameters on how investments are to be managed).
- b. **A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision.
- c. **An annual treasury report** – This is a backward looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

### Scrutiny

The above reports are required to be adequately scrutinised before being recommended to the council. This role is undertaken by the Governance and Audit Committee.

## 1.3 Treasury Management Strategy for 2020-21

The strategy for 2020-21 covers two main areas:

### Capital issues

- the capital expenditure plans and the associated prudential indicators;
- the minimum revenue provision (MRP) policy.

### Treasury management issues

- the current treasury position;
- treasury indicators which limit the treasury risk and activities of the council;
- prospects for interest rates;
- the borrowing strategy;
- policy on borrowing in advance of need;
- debt rescheduling;
- the investment strategy;
- creditworthiness policy; and
- policy on use of external service providers.

These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, MHCLG MRP Guidance, the CIPFA Treasury Management Code and MHCLG Investment Guidance.

## **1.4 Training**

The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny. Training was last undertaken by members on 31 October 2019 and further training will be arranged as required.

The training needs of treasury management officers are periodically reviewed.

## **1.5 External service providers**

The council uses Link Asset Services, Treasury Solutions as its external treasury management advisors.

The council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon our external service providers.

It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

The council uses the Institutional Cash Distributors (ICD) Portal to invest or redeem trades in its Money Market Funds (MMFs). The portal provides advanced reporting tools so that the authority can assess its exposure to certain banks or countries.

Most investments via the ICD portal are made via JP Morgan, who act as a clearing house for seven of the nine MMFs the council currently uses. The clearing house allows the authority to make several investments in different MMFs but only requires one payment to the clearing house, therefore saving the authority costs in CHAPS fees.

## **2 THE CAPITAL PRUDENTIAL INDICATORS 2020-21 – 2022-23**

The council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

### **2.1 Capital expenditure**

This prudential indicator is a summary of the council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts:

Capital expenditure £m	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
General Fund	9.945	16.216	12.507	7.671	5.312
HRA	5.435	20.112	13.189	15.551	2.324
<b>Total</b>	<b>15.380</b>	<b>36.328</b>	<b>25.696</b>	<b>23.222</b>	<b>7.636</b>

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

Capital expenditure £m	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
General Fund	9.945	16.216	12.507	7.671	5.312
HRA	5.435	20.112	13.189	15.551	2.324
<b>Total</b>	<b>15.380</b>	<b>36.328</b>	<b>25.696</b>	<b>23.222</b>	<b>7.636</b>
<b>Financed by:</b>					
Capital receipts - GF	2.734	6.573	1.294	1.039	0.612
Capital receipts - HRA	0.448	2.401	1.050	1.300	0.000
Capital grants - GF	2.955	6.355	5.773	4.707	3.000
Capital grants - HRA	0.562	2.022	0.300	0.000	0.000
Reserves - GF	0.214	0.379	0.107	0.115	0.000
Reserves - HRA	4.101	8.831	8.432	10.811	1.908
Revenue - GF	0.000	0.025	0.300	0.250	0.250
Revenue - HRA	0.324	0.448	0.400	0.408	0.416
<b>Net financing need for the year</b>	<b>4.042</b>	<b>9.294</b>	<b>8.040</b>	<b>4.592</b>	<b>1.450</b>

Other long term liabilities: The above financing need excludes other long term liabilities, such as PFI and leasing arrangements which already include borrowing instruments.

## 2.2 The Council's borrowing need (the Capital Financing Requirement)

The second prudential indicator is the council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the council's indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for, will increase the CFR.

The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the indebtedness in line with



each asset's life, and so charges the economic consumption of capital assets as they are used.

The CFR includes any other long term liabilities (e.g. PFI schemes, finance leases). Whilst these increase the CFR, and therefore the council's borrowing requirement, these types of scheme include a borrowing facility from the provider and so the council is not required to separately borrow for these schemes. The council had £2.148m of long term liabilities (excluding pensions) as at 31 March 2019.

The council is asked to approve the CFR projections below:

£m	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
<b>Capital Financing Requirement</b>					
CFR – General Fund	26.497	28.179	31.676	31.572	31.250
CFR – HRA	20.786	26.356	29.234	32.087	31.808
<b>Total CFR</b>	<b>47.283</b>	<b>54.535</b>	<b>60.910</b>	<b>63.659</b>	<b>63.058</b>
<b>Movement in CFR</b>	<b>2.684</b>	<b>7.252</b>	<b>6.375</b>	<b>2.749</b>	<b>(0.601)</b>

Net financing need for the year (above)	4.042	9.294	8.040	4.592	1.450
Less loan / liability repayments	(0.294)	(0.839)	(0.129)	(0.179)	(0.279)
Less MRP/VRP and other financing movements	(1.064)	(1.203)	(1.536)	(1.664)	(1.772)
<b>Movement in CFR</b>	<b>2.684</b>	<b>7.252</b>	<b>6.375</b>	<b>2.749</b>	<b>(0.601)</b>

### 2.3 Core funds and expected investment balances

The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an ongoing impact on investments unless resources are supplemented each year from new sources (asset sales etc.). Detailed below are estimates of the year end balances for each resource and anticipated day to day cash flow balances.

Year End Resources £m	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
Fund balances / reserves	24.127	17.834	17.834	17.834	17.834
Capital receipts	9.437	2.802	1.752	0.452	0.452
Earmarked reserves	13.998	12.757	12.757	12.757	12.757
<b>Total core funds</b>	<b>47.562</b>	<b>33.393</b>	<b>32.343</b>	<b>31.043</b>	<b>31.043</b>
Balances incl working capital*	8.790	6.691	9.598	10.538	7.080
(Under)/over borrowing	(14.679)	(12.084)	(13.941)	(13.581)	(10.123)
<b>Expected investments</b>	<b>41.673</b>	<b>28.000</b>	<b>28.000</b>	<b>28.000</b>	<b>28.000</b>

\*Working capital balances shown are estimated year end; these may be different mid-year.

## 2.4 Minimum revenue provision (MRP) policy statement

The council is required to pay off an element of the accumulated General Fund capital spend each year (the CFR) through a revenue charge (the minimum revenue provision - MRP), although it is also allowed to undertake additional voluntary payments if required (voluntary revenue provision - VRP).

MHCLG regulations have been issued which require the full council to approve an **MRP Statement** in advance of each year. A variety of options are provided to councils, so long as there is a prudent provision. The council is recommended to approve the following MRP Statement:

For capital expenditure incurred before 1 April 2008 or which in the future will be Supported Capital Expenditure, the MRP policy will be:

- **Existing practice** - MRP will follow the existing practice outlined in former MHCLG regulations (option 1).

This option provides for an approximate 4% reduction in the borrowing need (CFR) each year.

From 1 April 2008 for all unsupported borrowing (including PFI and finance leases) the MRP policy will be:

- **Asset life method** – MRP will be based on the estimated life of the assets, in accordance with the regulations (this option must be applied for any expenditure capitalised under a Capitalisation Direction) (option 3);

This option provides for a reduction in the borrowing need over approximately the asset's life.

There is no requirement on the HRA to make a minimum revenue provision but there is a requirement for a charge for depreciation to be made.

Repayments included in annual PFI or finance leases are applied as MRP.

**MRP Overpayments** - A change introduced by the revised MHCLG MRP Guidance was the allowance that any charges made over the statutory MRP, VRP or overpayments, can, if needed, be reclaimed in later years if deemed necessary or prudent. In order for these sums to be reclaimed for use in the budget, this policy must disclose any cumulative overpayment made each year.

## 3 BORROWING

The capital expenditure plans set out in Section 2 provide details of the service activity of the council. The treasury management function ensures that the council's cash is organised in accordance with the the relevant professional codes, so that sufficient cash is available to meet this service activity and the council's capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

### 3.1 Current portfolio position

The overall treasury management portfolio as at 31 March 2019, and the position as at 30 September 2019, are shown below for both borrowing and investments.

<b>TREASURY PORTFOLIO</b>				
	<b>Actual 31 March 2019</b>	<b>Actual 31 March 2019</b>	<b>Actual 30 Sept 2019</b>	<b>Actual 30 Sept 2019</b>
<b>Treasury Investments</b>	<b>£000</b>	<b>%</b>	<b>£000</b>	<b>%</b>
Banks	17,870	42.88	18,355	41.22
Money Market Funds	23,803	57.12	26,175	58.78
<b>Total (all managed in-house)</b>	<b>41,673</b>	<b>100.00</b>	<b>44,530</b>	<b>100.00</b>
<b>Treasury External Borrowing</b>				
PWLB	25,926	85.12	24,654	84.49
LOBOs	4,500	14.78	4,500	15.42
Salix	30	0.10	26	0.09
<b>Total</b>	<b>30,456</b>	<b>100.00</b>	<b>29,180</b>	<b>100.00</b>
<b>Net treasury investments / (borrowing)</b>	<b>11,217</b>		<b>15,350</b>	

The Council's forward projections for borrowing are summarised below. The table shows the actual external debt against the underlying capital borrowing need (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

<b>£m</b>	<b>2018-19 Actual</b>	<b>2019-20 Estimate</b>	<b>2020-21 Estimate</b>	<b>2021-22 Estimate</b>	<b>2022-23 Estimate</b>
<b>External Debt</b>					
Debt at 1 April	31.669	30.456	40.643	45.848	49.297
Expected change in Debt	(1.213)	10.187	5.205	3.449	3.197
Other long-term liabilities (OLTL) at 1 April	2.911	2.148	1.808	1.121	0.781
Expected change in OLTL	(0.763)	(0.340)	(0.687)	(0.340)	(0.340)
<b>Gross debt at 31 March</b>	<b>32.604</b>	<b>42.451</b>	<b>46.969</b>	<b>50.078</b>	<b>52.935</b>
The Capital Financing Requirement	47.283	54.535	60.910	63.659	63.058
<b>Under / (over) borrowing</b>	<b>14.679</b>	<b>12.084</b>	<b>13.941</b>	<b>13.581</b>	<b>10.123</b>

Within the range of prudential indicators there are a number of key indicators to ensure that the council operates its activities within well defined limits. One of these is that the council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2020-21 and the following two financial years. This allows some

flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue or speculative purposes.

The Section 151 Officer reports that the council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in this budget report.

### 3.2 Treasury Indicators: limits to borrowing activity

**The operational boundary.** This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

Operational boundary £m	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
Debt	63.000	69.000	73.000	73.000
Other long term liabilities (incl leases)	30.000	30.000	30.000	30.000
<b>Total</b>	<b>93.000</b>	<b>99.000</b>	<b>103.000</b>	<b>103.000</b>

**The authorised limit for external debt.** This is a key prudential indicator and represents a control on the maximum level of borrowing. This represents a legal limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

1. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.
2. The council is asked to approve the following authorised limit:

Authorised limit £m	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
Debt	68.000	74.000	78.000	78.000
Other long term liabilities (incl leases)	35.000	35.000	35.000	35.000
<b>Total</b>	<b>103.000</b>	<b>109.000</b>	<b>113.000</b>	<b>113.000</b>

Historically the Council has also been limited to a maximum HRA CFR through the HRA self-financing regime. However, the HRA cap that controls local authority borrowing for house building was abolished from 29 October 2018 in the Budget.

#### Composition of Operational Boundary and Authorised Limit

Debt (in both the Operational Boundary and Authorised Limit above) for 2019-20 onwards includes:

- a) An allowance for capital expenditure being incurred in advance of generating capital receipts to fund this expenditure (£3.0m for 2019-20 and 2020-21, increasing to £4.0m for 2021-22 and 2022-23). As this is anticipated to be a relatively short-term timing difference it has not been reflected elsewhere in this report.
- b) £5m to allow for any commercial activities/non-financial investments that the council may pursue (in addition to any such amounts already included within the capital and treasury estimates). This has not been reflected elsewhere in this report, pending the formulation and approval of any such items.

Other long term liabilities (in both the Operational Boundary and Authorised Limit above) includes an estimate for the recognition of leases under International Financial Reporting Standard 16 (IFRS 16). Once full details are known, the Operational Boundary and/or Authorised Limit may need to be revised for approval. The impact of IFRS 16 has not been reflected elsewhere in this report, pending further information from CIPFA.

### 3.3 Link’s economic and interest rate forecast (issued by Link on 25 October 2019)

The Council has appointed Link Asset Services as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives Link’s central view.

Link Asset Services Interest Rate View										
	Dec-19	Mar-20	Jun-20	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22
Bank Rate View	0.75	0.75	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.25
3 Month LIBID	0.70	0.70	0.70	0.80	0.90	1.00	1.00	1.00	1.10	1.20
6 Month LIBID	0.80	0.80	0.80	0.90	1.00	1.10	1.10	1.20	1.30	1.40
12 Month LIBID	1.00	1.00	1.00	1.10	1.20	1.30	1.30	1.40	1.50	1.60
5yr PWLB Rate	2.30	2.50	2.60	2.70	2.70	2.80	2.90	3.00	3.00	3.10
10yr PWLB Rate	2.60	2.80	2.90	3.00	3.00	3.10	3.20	3.30	3.30	3.40
25yr PWLB Rate	3.30	3.40	3.50	3.60	3.70	3.70	3.80	3.90	4.00	4.00
50yr PWLB Rate	3.20	3.30	3.40	3.50	3.60	3.60	3.70	3.80	3.90	3.90

The above forecasts have been based on an assumption that there is some sort of muddle through to an agreed deal on Brexit at some point in time. Given the current level of uncertainties, this is a major assumption and so forecasts may need to be materially reassessed in the light of events over the coming weeks or months.

It has been little surprise that the Monetary Policy Committee (MPC) has left Bank Rate unchanged at 0.75% so far in 2019 due to the ongoing uncertainty over Brexit. In its meeting on 1 August, the MPC became more dovish as it was more concerned about the outlook for both the global and domestic economies. That’s shown in the policy statement, based on an assumption that there is an agreed deal on Brexit, where the suggestion that rates would need to rise at a “gradual pace and to a limited extent” is now also conditional on “some recovery in global growth”. Brexit uncertainty has had a dampening effect on UK Gross Domestic Product (GDP) growth in 2019, especially around mid-year. If there were a ‘no deal’ Brexit, then it is likely that there

will be a cut or cuts in Bank Rate to help support economic growth. The September MPC meeting sounded even more concern about world growth and the effect that prolonged Brexit uncertainty is likely to have on growth.

**Bond yields / PWLB rates.** There has been much speculation recently that we are currently in a bond market bubble. However, given the context that there are heightened expectations that the US could be heading for a recession, and a general background of a downturn in world economic growth, together with inflation generally at low levels in most countries and expected to remain subdued, conditions are ripe for low bond yields. While inflation targeting by the major central banks has been successful over the last thirty years in lowering inflation expectations, the real equilibrium rate for central rates has fallen considerably due to the high level of borrowing by consumers: this means that central banks do not need to raise rates as much now to have a major impact on consumer spending, inflation, etc. This has pulled down the overall level of interest rates and bond yields in financial markets over the last thirty years. We have therefore seen over the last year, many bond yields up to ten years in the Eurozone actually turn negative. In addition, there has, at times, been an inversion of bond yields in the US whereby ten-year yields have fallen below shorter-term yields. In the past, this has been a precursor of a recession. The other side of this coin is that bond prices are elevated, as investors would be expected to be moving out of riskier assets i.e. shares, in anticipation of a downturn in corporate earnings and so selling out of equities. However, stock markets are also currently at high levels as some investors have focused on chasing returns in the context of dismal ultra-low interest rates on cash deposits.

During the first half of 2019-20 to 30 September, gilt yields plunged and caused a near halving of longer term Public Works Loan Board (PWLB) rates to completely unprecedented historic low levels (see paragraph 3.7 for comments on the increase in the PWLB rates margin over gilt yields of 100 basis points introduced on 9 October 2019). There is though, an expectation that financial markets have gone too far in their fears about the degree of the downturn in US and world growth. If, as expected, the US only suffers a mild downturn in growth, bond markets in the US are likely to sell off and that would be expected to put upward pressure on bond yields, not only in the US, but also in the UK due to a correlation between US treasuries and UK gilts; at various times this correlation has been strong but at other times weak. However, forecasting the timing of this and how strong the correlation is likely to be is very difficult to forecast with any degree of confidence. Changes in UK Bank Rate will also impact on gilt yields.

One potential danger that may be lurking in investor minds is that Japan has become mired in a twenty-year bog of failing to get economic growth and inflation up off the floor, despite a combination of massive monetary and fiscal stimulus by both the central bank and government. Investors could be fretting that this condition might become contagious to other western economies.

Another danger is that unconventional monetary policy post 2008 (ultra-low interest rates plus quantitative easing) may end up doing more harm than good through prolonged use. Low interest rates have encouraged a debt-fuelled boom that now makes it harder for central banks to raise interest rates. Negative interest rates could damage the profitability of commercial banks and so impair their ability to lend and / or push them into riskier lending. Banks could also end up holding large amounts of

their government's bonds and so create a potential doom loop. (A doom loop would occur where the credit rating of the debt of a nation was downgraded which would cause bond prices to fall, causing losses on debt portfolios held by banks and insurers, so reducing their capital and forcing them to sell bonds – which, in turn, would cause further falls in their prices etc.). In addition, the financial viability of pension funds could be damaged by low yields on holdings of bonds.

The overall longer run future trend is for gilt yields, and consequently PWLB rates, to rise, albeit gently. From time to time, gilt yields, and therefore PWLB rates, can be subject to exceptional levels of volatility due to geo-political, sovereign debt crisis, emerging market developments and sharp changes in investor sentiment. Such volatility could occur at any time during the forecast period.

In addition, PWLB rates are subject to ad hoc decisions by H.M. Treasury to change the margin over gilt yields charged in PWLB rates: such changes could be up or down. It is not clear that if gilt yields were to rise back up again by over 100 basis points within the next year or so, whether H M Treasury would remove the extra 100 basis points margin implemented on 9 October 2019.

Economic and interest rate forecasting remains difficult with so many influences weighing on UK gilt yields and PWLB rates. The above forecasts (and MPC decisions) will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.

### **Investment and borrowing rates**

- Investment returns are likely to remain low during 2020-21 with little increase in the following two years. However, if major progress was made with an agreed Brexit, then there is upside potential for earnings.
- Borrowing interest rates were on a major falling trend during the first half of 2019-20 but then jumped up by 100 basis points on 9 October 2019. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years. However, the unexpected increase of 100 basis points in PWLB rates requires a major rethink of local authority treasury management strategy and risk management. Now that the gap between longer term borrowing rates and investment rates has materially widened, and in the long term Bank Rate is not expected to rise above 2.5%, this authority continues to carefully review its longer term borrowing needs.
- Although additional borrowing may be needed to finance new capital expenditure, to replace maturing debt and the rundown of reserves, there will be a cost of carry (the difference between higher borrowing costs and lower investment returns) to any new short or medium-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue cost.

## 3.4 Borrowing strategy

The council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement) has not been fully funded with loan debt as cash supporting the council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is still an issue that needs to be considered.

Against this background and the risks within the economic forecast, caution will be adopted with the 2020-21 treasury operations. The Section 151 Officer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant risk of a sharp FALL in borrowing rates (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then borrowing will be postponed.*
- *if it was felt that there was a significant risk of a much sharper RISE in borrowing rates than those currently forecast, perhaps arising from an acceleration in the rate of increase in central rates in the USA and UK, an increase in world economic activity or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Most likely, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.*

Any decisions will be reported to the appropriate decision making body at the next available opportunity.

## 3.5 Policy on borrowing in advance of need

The council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the council can ensure the security of such funds.

Borrowing in advance will be made within the constraints that:

- The authority would not look to borrow more than 18 months in advance of need.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

## 3.6 Debt rescheduling

Rescheduling of current borrowing in our debt portfolio is unlikely to occur as the 100 basis points increase in PWLB rates only applied to new borrowing rates and not to premature debt repayment rates.

If rescheduling were done, it will be reported to Cabinet at the earliest meeting following its action.



## 3.7 New financial institutions as a source of borrowing and / or types of borrowing

Following the decision by the PWLB on 9 October 2019 to increase its margin over gilt yields by 100 basis points to 180 basis points on loans lent to local authorities, consideration will also need to be given to sourcing funding at cheaper rates from the following:

- Local authorities (primarily shorter dated maturities)
- Financial institutions (primarily insurance companies and pension funds but also some banks, out of spot or forward dates)
- Municipal Bonds Agency (no issuance at present but there is potential)

The degree to which any of these options proves cheaper than the PWLB Certainty Rate is still evolving at the time of writing but our advisors will keep us informed.

The council may make use of borrowing from internal sources, PWLB, local authorities, financial institutions and/or the Municipal Bonds Agency as and when appropriate.

## 4 ANNUAL INVESTMENT STRATEGY

### 4.1 Investment policy - management of risk

The MHCLG and CIPFA have extended the meaning of 'investments' to include both financial and non-financial investments. This report deals solely with financial investments (as managed by the treasury management team). Non-financial investments, essentially the purchase of income yielding assets, are covered in the Capital Strategy and Non-Treasury Investments Report (separate reports).

The Council's investment policy has regard to the following: -

- MHCLG's Guidance on Local Government Investments ("the Guidance")
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2017 ("the Code")
- CIPFA Treasury Management Guidance Notes 2018

The Council's investment priorities will be security first, portfolio liquidity second and then yield (return).

The above guidance from the MHCLG and CIPFA place a high priority on the management of risk. This authority has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

1. Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
2. **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political

environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as “**credit default swaps**” and overlay that information on top of the credit ratings.

3. **Other information sources** used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
4. This authority has defined the list of **types of investment instruments** that the treasury management team are authorised to use. There are two lists in annex 2 under the categories of ‘specified’ and ‘non-specified’ investments.
  - **Specified investments** are those with a high level of credit quality and subject to a maturity limit of one year.
  - **Non-specified investments** are those with less high credit quality, may be for periods in excess of one year, and/or are more complex instruments which require greater consideration by members and officers before being authorised for use. Once an investment is classed as non-specified, it remains non-specified all the way through to maturity i.e. an 18 month deposit would still be non-specified even if it has only 11 months left until maturity.
5. **Non-specified investments limit.** The Council has determined that it will limit the maximum total exposure to non-specified investments at £5m (see paragraphs 4.2, 4.3 and 4.4).
6. **Lending limits** (amounts and maturity) for each counterparty will be set through applying the matrix table in paragraph 4.2.
7. This authority will set a limit for the amount of its investments which are invested for **longer than 365 days**, (see paragraphs 4.2 and 4.4).
8. Investments will only be placed with counterparties from foreign countries which have a specified minimum **sovereign rating**, (see paragraph 4.3). This does not apply to pooled investment vehicles.
9. This authority has engaged **external consultants**, (see paragraph 1.5) to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this authority in the context of the expected level of cash balances and need for liquidity throughout the year.
10. All investments will be denominated in **sterling**.
11. As a result of the change in accounting standards for 2018-19 onwards under **IFRS 9**, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. In November 2018, The Ministry of Housing, Communities and Local Government (MHCLG) concluded a consultation for a temporary override to allow English local

authorities time to adjust their portfolio of investments by announcing a statutory override to delay implementation of IFRS 9 for five years commencing from 1 April 2018.

However, this authority will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance (see paragraph 4.5). Regular monitoring of investment performance will be carried out during the year.

### **Changes in risk management policy from last year.**

The above criteria are unchanged from last year, apart from:

- removing the requirement to maintain a £0.5m overdraft facility (saving the council annual arrangement fees).
- now permitting investment in multi-asset funds.

## **4.2 Creditworthiness policy**

The primary principle governing the council's investment criteria is the security of its investments, although the yield or return on the investment is also a key consideration. After this main principle, the council will ensure that:

- It maintains a policy covering both the categories of investment types it will invest in, criteria for choosing investment counterparties with adequate security, and monitoring their security. This is set out in the specified and non-specified investment sections below; and
- It has sufficient liquidity in its investments. For this purpose it will set out procedures for determining the maximum periods for which funds may prudently be committed. These procedures also apply to the council's prudential indicators covering the maximum principal sums invested.

The Section 151 Officer will maintain a counterparty list in compliance with the following criteria and will revise the criteria and submit them to council for approval as necessary. These criteria are separate to that which determines which types of investment instrument are either specified or non-specified as it provides an overall pool of counterparties considered high quality which the council may use, rather than defining what types of investment instruments are to be used.

Credit rating information is supplied by Link Asset Services, our treasury advisors, on all active counterparties that comply with the criteria below. Any counterparty failing to meet the criteria would be omitted from the counterparty (dealing) list. Any rating changes, rating watches (notification of a likely change), rating outlooks (notification of the longer term bias outside the central rating view) are provided to officers almost immediately after they occur and this information is considered before dealing. For instance, a negative rating watch applying to a counterparty at the minimum council criteria may be suspended from use, with all others being reviewed in light of market conditions.

The criteria for providing a pool of high quality investment counterparties (both specified and non-specified investments) is:

- Banks 1 - good credit quality – the council will only use banks which:
  - i. are UK banks; and/or
  - ii. are non-UK and domiciled in a country which has a minimum sovereign long term rating of AA-and have, as a minimum, the following credit rating from at least one of Fitch, Moody's and Standard and Poors (where rated):
  - i. Short term – F1 (or equivalent)
  - ii. Long term – A (or equivalent)
- Banks 2 – Part nationalised UK bank – Royal Bank of Scotland Group ring-fenced operations. This bank can be included provided it continues to be part nationalised or it meets the above criteria.
- Banks 3 – The council's own banker for transactional purposes if the bank falls below the above criteria, although in this case balances will be minimised in both monetary size and time invested.
- Bank subsidiary and treasury operations: If separately rated, the council will use those that meet the ratings/criteria for banks outlined above. If not separately rated, the council will use these where the parent bank has the necessary ratings/criteria outlined above.
- Building societies: The council will use all societies which meet the ratings/criteria for banks outlined above.
- Money market funds, enhanced money market funds, bond funds – AAA
- UK Government (including gilts, treasury bills and the DMADF)
- Local authorities, parish councils, community councils, companies controlled by the council (either alone or with other public sector organisations) etc
- Housing associations
- Supranational institutions
- Multi-asset funds

A limit of £5m will be applied to the use of non-specified investments.

**Use of additional information other than credit ratings.** Additional requirements under the Code require the council to supplement credit rating information. Whilst the above criteria relies primarily on the application of credit ratings to provide a pool of appropriate counterparties for officers to use, additional operational market information will be applied before making any specific investment decision from the agreed pool of counterparties. This additional market information (for example Credit Default Swaps, negative rating watches/outlooks) will be applied to compare the relative security of differing investment counterparties.

**Time and monetary limits applying to investments.** The time and monetary limits for institutions on the council's counterparty list are as follows (these will cover both specified and non-specified investments):

	Fitch Long Term Rating (or equivalent)*	Money Limit	Time Limit (settlement period)
<b>Higher quality</b>	<b>AA-</b>	<b>£6m per institution</b>	<b>370 days</b>
<b>Medium quality</b>	<b>A</b>	<b>£5m per institution</b>	<b>370 days</b>
<b>Part nationalised</b>	<b>N/A</b>	<b>£7m per institution</b>	<b>370 days</b>
<b>Debt Management Account Deposit Facility</b>	<b>UK sovereign rating</b>	<b>unlimited</b>	<b>6 months</b>
<b>Money market funds, enhanced money market funds, bond funds</b>	<b>AAA</b>	<b>£6m per fund</b>	<b>370 days</b>
<b>Local authorities, parish councils, community councils, companies controlled by the council (either alone or with other public sector organisations), housing associations, supranational institutions etc</b>	<b>N/A</b>	<b>£4m per institution</b>	<b>5 years</b>
<b>Multi-asset funds</b>	<b>N/A</b>	<b>£5m per fund</b>	<b>370 days</b>

*\*The institution must have this minimum credit rating from at least one of Fitch, Moody's, and Standard and Poors (where rated).*

The proposed criteria for specified and non-specified investments are shown in Annex 2 for approval.

### **UK banks – ring fencing**

The largest UK banks (those with more than £25bn of retail / Small and Medium-sized Enterprise (SME) deposits) were required by UK law to separate core retail banking services from their investment and international banking activities by 1st January 2019. This is known as “ring-fencing”. Whilst smaller banks with less than £25bn in deposits are exempt, they can choose to opt up. Several banks are very close to the threshold and so may come into scope in the future regardless.

Ring-fencing is a regulatory initiative created in response to the global financial crisis. It mandates the separation of retail and SME deposits from investment banking, in order to improve the resilience and resolvability of banks by changing their structure. In general, simpler activities offered from within a ring-fenced bank (RFB), will be focused on lower risk, day-to-day core transactions, whilst more complex and “riskier” activities are required to be housed in a separate entity, a non-ring-fenced bank (NRFB). This is intended to ensure that an entity's core activities are not adversely affected by the acts or omissions of other members of its group.

While the structure of the banks included within this process may have changed, the fundamentals of credit assessment have not. The council will continue to assess the new-formed entities in the same way that it does others and those with sufficiently high ratings (and any other metrics considered) will be considered for investment purposes.

## 4.3 Other limits

Due care will be taken to consider the exposure of the council's total investment portfolio to non-specified investments, countries, groups and sectors.

- a) **Non-specified investment limit.** The council has determined that it will limit the maximum total exposure to non-specified investments at £5m.
- b) **Country limit.** The council has determined that it will only use approved counterparties from the UK (irrespective of the UK sovereign credit rating) or other countries with a minimum sovereign credit rating of AA- from Fitch (or equivalent). This list will be added to, or deducted from, by officers should ratings change in accordance with this policy.
- c) **Other limits.** In addition:
  - no more than £5m will be placed with any non-UK country at any time (this limit applies to each non-UK country individually and not to non-UK countries in total);
  - limits in place above will apply to a group of companies;
  - sector limits will be monitored regularly for appropriateness.

The above restrictions do not apply to pooled investment vehicles (including multi-asset funds (apart from the non-specified investment limit), money market funds, enhanced money market funds and bond funds). The council only invests in sterling denominated pooled investment vehicles.

## 4.4 Investment strategy

**In-house funds:** Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

**Link’s Investment returns expectations (issued by Link on 25 October 2019):**

On the assumption that the UK and EU agree a Brexit deal by the end of 2019 or soon after, then Bank Rate is forecast to increase only slowly over the next few years to reach 1.25% by quarter 1 2022. Bank Rate forecasts for financial year ends (March) are:

- Q1 2021                    0.75%
- Q1 2022                    1.00%
- Q1 2023                    1.25%

The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows:

2019-20	0.75%
2020-21	1.00%
2021-22	1.00%
2022-23	1.50%
2023-24	1.50%
2024-25	1.75%
Later years	2.25%

- The overall balance of risks to economic growth in the UK is probably to the downside due to the weight of all the uncertainties over Brexit, as well as a softening global economic picture.
- The balance of risks to increases in Bank Rate and shorter term PWLB rates are broadly similarly to the downside.
- In the event that a Brexit deal is agreed with the EU and approved by Parliament, the balance of risks to economic growth and to increases in Bank Rate is likely to change to the upside.

**Investment treasury indicator and limit** - total principal funds invested for greater than 365 days. These limits are set with regard to the council’s liquidity requirements and to reduce the need for early sale of an investment, and are based on the availability of funds after each year-end.

The council is asked to approve the following treasury indicator and limit: -

<b>Upper limit for principal sums invested for longer than 365 days</b>			
<b>£m</b>	<b>2020-21</b>	<b>2021-22</b>	<b>2022-23</b>
Principal sums invested for longer than 365 days	£5m	£5m	£5m

Investments as at 31 September 2019 invested for longer than 365 days were £0.6m.

For its cash flow generated balances, the council will seek to utilise its instant access and notice accounts, pooled investment vehicles and term deposits in order to benefit from the compounding of interest.

## 4.5 Investment performance / risk benchmarking

These benchmarks are simple guides to maximum risk, so they may be breached from time to time, depending on movements in interest rates and counterparty criteria. The purpose of the benchmarks is that officers will monitor the current and trend position and amend the operational strategy to manage risk as conditions change. Any breach of the benchmarks will be reported, with supporting reasons in the mid-year or Annual Report.

Security - The council's maximum security risk benchmark for the current portfolio, when compared to historic default tables, is:

- 0.05% historic risk of default when compared to the whole portfolio (excluding unrated investments).

Liquidity – in respect of this area the council seeks to maintain:

- Liquid short term deposits of at least £10m available with a week's notice.
- Weighted average life benchmark is expected to be in the range of 0 to 1 years, with a maximum of 5 years.

Yield - local measures of yield benchmarks are:

- Investments – internal returns above the 7 day LIBID rate

And in addition that the security benchmark for each individual year is (excluding unrated investments):

	1 year	2 years	3 years	4 years	5 years
<b>Maximum</b>	<b>0.05%</b>	<b>0.05%</b>	<b>0.05%</b>	<b>0.05%</b>	<b>0.05%</b>

Note: This benchmark is an average risk of default measure, and would not constitute an expectation of loss against a particular investment.

## 4.6 End of year investment report

At the end of the financial year, the council will report on its investment activity as part of its Annual Treasury Report.

## 4.7 Use of external fund managers

It is the council's policy not to use external fund managers on a discretionary basis for any part of its investment portfolio.

The council may use pooled investment vehicles and fully appreciates the importance of monitoring the activity and resultant performance of such investments. In order to aid this assessment, the council is provided with a suite of regular reporting from its providers.



## 5 OPTIONS

That council:

- a) Approves this report and annexes, including each of the key elements of this report and annexes listed below:
- The Capital Plans, Prudential Indicators and Limits for 2020-21 to 2022-23, including the Authorised Limit Prudential Indicator.
  - The Minimum Revenue Provision (MRP) Policy.
  - The Treasury Management Strategy for 2020-21 to 2022-23 and the Treasury Indicators.
  - The Investment Strategy for 2020-21 contained in the Treasury Management Strategy, including the detailed criteria.
  - The Capital Strategy for 2020-21.
  - The Non-Treasury Investments Report for 2020-21.
- b) Does not approve this report and annexes (advising the reason(s) why); thereby not complying with the Treasury Management Code of Practice.

## 6 DISCLAIMER

This report (including its annexes) is a technical document focussing on public sector investments and borrowings and, as such, readers should not use the information contained within the report to inform personal investment or borrowing decisions. Neither Thanet District Council nor any of its officers or employees makes any representation or warranty, express or implied, as to the accuracy or completeness of the information contained herein (such information being subject to change without notice) and shall not be in any way responsible or liable for the contents hereof and no reliance should be placed on the accuracy, fairness or completeness of the information contained in this document. Any opinions, forecasts or estimates herein constitute a judgement and there can be no assurance that they will be consistent with future results or events. No person accepts any liability whatsoever for any loss howsoever arising from any use of this document or its contents or otherwise in connection therewith.

Contact Officer:	Tim Willis, Deputy Chief Executive & Section 151 Officer
Reporting to:	Madeline Homer, Chief Executive

### Annex List

Annex 1	The Capital Prudential and Treasury Indicators 2018-19 – 2022-23
Annex 2	Treasury Management Practice (TMP1) – Credit and Counterparty Risk Management

Annex 3	Guidance on Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy (TMSS)
Annex 4	Capital Strategy 2020-21
Annex 5	Non-Treasury Investments Report 2020-21

## **Corporate Consultation Undertaken**

Finance	Chris Blundell, Head of Financial and Procurement Services
Legal	Tim Howes, Director of Corporate Governance & Monitoring Officer

**ANNEX 1 - THE CAPITAL PRUDENTIAL AND TREASURY INDICATORS 2018-19  
– 2022-23**

The council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

**1. Capital expenditure**

Capital expenditure £m	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
General Fund	9.945	16.216	12.507	7.671	5.312
HRA	5.435	20.112	13.189	15.551	2.324
<b>Total</b>	<b>15.380</b>	<b>36.328</b>	<b>25.696</b>	<b>23.222</b>	<b>7.636</b>

**2. Affordability prudential indicators**

The previous section covers the overall capital and control of borrowing prudential indicators but, within this framework, prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the council's overall finances. The council is asked to approve the following indicators:

**a. Ratio of financing costs to net revenue stream**

This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

%	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
<b>General Fund</b>	6.1%	9.0%	13.2%	14.2%	14.6%
<b>HRA</b>	5.2%	4.0%	6.3%	7.0%	7.2%

The estimates of financing costs include current commitments and the proposals in this budget report.

**b. HRA ratios**

£	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
<b>HRA debt £m*</b>	20.040	25.609	25.481	28.310	31.063
<b>HRA rents £m</b>	12.894	12.740	13.371	13.707	13.976
<b>Ratio of debt to rents %</b>	155.4%	201.0%	190.6%	206.5%	222.2%

£	2018-19 Actual	2019-20 Estimate	2020-21 Estimate	2021-22 Estimate	2022-23 Estimate
<b>HRA debt £m</b>	20.040	25.609	25.481	28.310	31.063
<b>Number of HRA dwellings</b>	3,033	3,012	3,008	3,043	3,043
<b>Debt per dwelling £</b>	6,607	8,502	8,471	9,303	10,208

### 3. Maturity structure of borrowing

These gross limits are set to reduce the council's exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

The council is asked to approve the following treasury indicators and limits:

<b>Maturity structure of fixed interest rate borrowing 2020-21</b>		
	<b>Lower</b>	<b>Upper</b>
Under 12 months	0%	50%
12 months to under 2 years	0%	50%
2 years to under 5 years	0%	50%
5 years to under 10 years	0%	50%
10 years to under 20 years	0%	50%
20 years to under 30 years	0%	50%
30 years to under 40 years	0%	50%
40 years to under 50 years	0%	50%
50 years and above	0%	50%

<b>Maturity structure of variable interest rate borrowing 2020-21</b>		
	<b>Lower</b>	<b>Upper</b>
Under 12 months	0%	50%
12 months to under 2 years	0%	50%
2 years to under 5 years	0%	50%
5 years to under 10 years	0%	50%
10 years to under 20 years	0%	50%
20 years to under 30 years	0%	50%
30 years to under 40 years	0%	50%
40 years to under 50 years	0%	50%
50 years and above	0%	50%

### 4. Control of interest rate exposure

Please see paragraphs 3.3, 3.4 and 4.4 of the main report.

### **ANNEX 2 - TREASURY MANAGEMENT PRACTICE (TMP1) – CREDIT AND COUNTERPARTY RISK MANAGEMENT**

The MHCLG issued Investment Guidance in 2018, and this forms the structure of the council's policy below. These guidelines do not apply to either trust funds or pension funds which operate under a different regulatory regime.

The key intention of the Guidance is to maintain the current requirement for councils to invest prudently, and that priority is given to security and liquidity before yield. In order to facilitate this objective the guidance requires this council to have regard to the CIPFA publication Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. This council adopts the Code and will apply its principles to all investment activity. In accordance with the Code, the Section 151 Officer has produced its treasury management practices (TMPs). This part, TMP 1(1), covering investment counterparty policy requires approval each year.

#### **Annual investment strategy**

The key requirements of both the Code and the investment guidance are to set an annual investment strategy, as part of the annual treasury strategy for the following year, covering the identification and approval of the following:

- The strategy guidelines for choosing and placing investments, particularly non-specified investments.
- The principles to be used to determine the maximum periods for which funds can be committed.
- Specified investments that the council will use. These are high security (i.e. high credit rating, although this is defined by the council, and no guidelines are given), and high liquidity investments in sterling and with a maturity of no more than a year.
- Non-specified investments, clarifying the greater risk implications, identifying the general types of investment that may be used and a limit to the overall amount of various categories that can be held at any time.

The investment policy proposed for the council is:

**Strategy guidelines** – The main strategy guidelines are contained in the body of the treasury strategy statement.

**Specified investments** - These investments are sterling investments of not more than one-year maturity, or those which could be for a longer period but where the council has the right to be repaid within 12 months if it wishes. These are considered low risk assets where the possibility of loss of principal or investment income is small. These would include sterling investments which would not be defined as capital expenditure with:

1. The UK Government (such as the Debt Management Account deposit facility, UK treasury bills or a gilt with less than one year to maturity).
2. Supranational bonds of less than one year's duration.

# Agenda Item 5

## Annex 2

3. Local authorities, housing associations, parish councils, community councils, companies controlled by the council (either alone or with other public sector organisations).
4. Money market funds, enhanced money market funds and bond funds that have been awarded a high credit rating by a credit rating agency. This covers pooled investment vehicles rated AAA by Standard and Poor's, Moody's and/or Fitch rating agencies (where rated).
5. A body that is considered of a high credit quality (such as a bank or building society). This covers bodies with a minimum short term rating of F1 (or the equivalent) and minimum long term rating of A (or the equivalent) as rated by at least one of Standard and Poor's, Moody's and/or Fitch rating agencies (where rated).
6. Any part nationalised UK bank or building society.
7. Any subsidiary and treasury operations that meet the above criteria or, if not separately rated, where the parent bank or building society has the necessary ratings outlined above.
8. The council's own banker for transactional purposes if the bank falls below the above criteria, although in this case balances will be minimised in both monetary size and time invested.

Within these bodies, and in accordance with the Code, the council has set additional criteria to set the time and amount of monies which will be invested in these bodies, as set out in the council's annual investment strategy.

### **Non-specified investments**

Non-specified investments are any other type of investment (i.e. not defined as specified above). The council may only use the following non-specified investments:

1. Those with a maturity of no more than 5 years and which otherwise meet the above criteria for specified investments.
2. Multi-asset funds.

The council has applied a limit of £5m for non-specified investments.

### **The monitoring of investment counterparties**

The credit rating of counterparties will be monitored regularly. The Council receives credit rating information (changes, rating watches and rating outlooks) from Link Asset Services as and when ratings change, and counterparties are checked promptly. On occasion ratings may be downgraded when an investment has already been made. The criteria used are such that a minor downgrading should not affect the full receipt of the principal and interest. Any counterparty failing to meet the criteria will be removed from the list immediately by the Section 151 Officer, and if required new counterparties which meet the criteria will be added to the list.

**Use of external fund managers:** It is the council's policy not to use external fund managers on a discretionary basis for any part of its investment portfolio.

The council may use pooled investment vehicles and fully appreciates the importance of monitoring the activity and resultant performance of such investments. In order to aid this assessment, the council is provided with a suite of regular reporting from its providers.

**ANNEX 3 - GUIDANCE ON TREASURY MANAGEMENT STRATEGY  
STATEMENT, MINIMUM REVENUE PROVISION POLICY STATEMENT AND  
ANNUAL INVESTMENT STRATEGY (TMSS)**

Prudential Code

The Prudential Code was developed by the Chartered Institute of Public Finance and Accountancy (CIPFA) as a professional code of practice for capital finance, to which local authorities must have regard.

Capital Expenditure

The Capital Expenditure table (section 2.1 of report) is split between the Council's Housing Revenue Account (HRA) and General Fund (GF or non-HRA).

The table also shows the resources used to fund the capital expenditure (being capital receipts from the sale of assets, capital grants, capital reserves and revenue) and any shortfall in resources. This shortfall is described as the 'net financing need' and represents the Council's borrowing need.

Borrowing Need (Capital Financing Requirement)

The Capital Financing Requirement (CFR) represents the Council's aggregate borrowing need. i.e. the element of the capital programme that cannot be funded.

The table (section 2.2 of report) shows how the net financing need (borrowing requirement) increases the CFR.

So that the CFR does not increase indefinitely, an annual resource contribution from revenue must be set against it (called the Minimum Revenue Provision or MRP), which is shown in the table.

Core Funds and Expected Investment Balances

This table (section 2.3 of report) shows that the Council may satisfy its net financing need by borrowing from its own reserves or cashflow (internal borrowing) rather than from an external provider (external borrowing).

Either form of borrowing may only be undertaken for capital expenditure purposes.

MRP Policy Statement

This describes the method for calculating the annual MRP contribution described above (section 2.4 of report).

### Borrowing

Current portfolio position – this table (section 3.1 of report) shows that the Council's debt is not more than the CFR because, as above, the CFR represents the Council's aggregate borrowing need.

Borrowing limits (section 3.2 and annex 1 of report) – there are various general controls on the Council's borrowing activity (operational boundary, authorised limit, fixed and variable interest rate exposures, and maturity profiles).

### Basis Points

The report may refer to basis points, which is a unit of measure for interest rates. 1 basis point is equal to 0.01%, so 100 basis points is 1%.

### Annual Investment Strategy

This section (section 4 of report) sets out general controls on the Council's investment activity to safeguard the security and liquidity of its investments, including:

- Creditworthiness of investment counterparties.
- Counterparty money limits.
- Counterparty time limits.
- Counterparty country limits.

### Ratio of Financing Costs to Net Revenue Stream

This table (annex 1 of report) shows (separately for HRA and GF) the percentage of the Council's revenue stream that is used to finance the CFR (net interest payable and MRP).



### **ANNEX 4: THANET DISTRICT COUNCIL - CAPITAL STRATEGY 2020-21**

#### **1. Background**

A revision to the CIPFA Prudential Code for Capital Finance in Local Authorities was issued in December 2017 (with guidance notes issued in September 2018), with a new requirement being that local authorities produce a Capital Strategy for consideration and approval by Members.

The Capital Strategy forms part of this council's integrated revenue, capital and balance sheet planning. Capital expenditure and associated investment decisions are taken in line with service objectives and properly take account of stewardship, value for money, prudence, sustainability and affordability. Due consideration is given to both risk and reward, and impact on the achievement of priority outcomes.

#### **2. Priorities and Objectives**

Like most councils, this council has capital expenditure needs that far exceed its potential capital resources, particularly given public sector funding cuts and resource pressures.

Accordingly, this council's Capital Protocol is that financial resources and assets are used to their maximum effect, and that Financial Procedure Rules and Contract Standing Orders are adhered to, with the following objectives:

- a) Corporate Plan/council priorities, including any environmental impact, are considered when prioritising limited resources (see section 3 below).
- b) All financial implications arising from the project are identified e.g. match funding requirements and ongoing unsupported revenue costs etc.
- c) The correct authorisation is obtained to enter into an agreement for capital expenditure.
- d) The project progresses as approved.
- e) Monitoring takes place in a timely manner.
- f) All expenditure is properly incurred and recorded.
- g) All project outcomes, outputs and results are achieved.
- h) There is an audit trail for all expenditure and income relating to the project.
- i) Issues that may arise for project delivery are identified and considered appropriately e.g. legal, VAT and capacity issues.
- j) Any significant changes to the project are considered in the overall prioritisation of the capital programme and the correct authorisation is obtained.

#### **3. Corporate Priorities**

The council will use its corporate priorities to help prioritise its investment in, and disposal of, assets. The current corporate priorities are:

**Growth:** We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in the growth of the District.

**Environment:** Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we will do and

what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

**Communities:** Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

#### **4. Revenue Implications**

As per section 2b, council rules require that all financial implications arising from a capital project are identified, including revenue implications which can include:

- a) The cost of borrowing (Minimum Revenue Provision and interest charges).
- b) Loss of investment income from capital receipts.
- c) Running costs associated with the project.
- d) The positive impact of investment and economic growth on the council's tax base and business rates income.

Accordingly, a key consideration is that council capital schemes generate revenue savings and/or are externally funded.

#### **5. Focussing the capital programme on delivering the council's priorities**

The capital programme demands significant resources which, if not managed effectively, can actually impede what the council is looking to deliver. The Capital Strategy is to pay particular attention to better aligning the capital programme to the council's corporate values and priorities.

In particular:

Slippage will not be the acceptable norm - capital schemes will be at risk of having their council funding re-directed should there be delays that cannot be substantiated (schemes that are externally funded may require more flexibility however).

Assumptions that a council owned asset should be invested in or disposed of will be challenged - consideration of whether that asset could be better utilised will need to be evaluated and demonstrated.

Opportunities for non-treasury investment should be explored. Subject to (a) being able to stabilise its financial position, and (b) risk considerations, the council should consider investing in a wider choice of assets that can generate better economic returns. More information is given in the council's Non-Treasury Investments Report.

Corporate Management Team will be taking the lead on achieving the focus the capital programme requires.

### **6. Assessing and Monitoring Schemes**

Officer arrangements for assessing and monitoring capital schemes is overseen by CMT (which includes the council's Section 151 Officer). The role of CMT in this regard is:

- a) To coordinate all aspects of the council's Capital Programme including the assessment of bids, preparation of the programme, monitoring and post audit reviews.
- b) To review annually the capital assessment and prioritisation methodology.
- c) To evaluate and prioritise all projects submitted according to the council's prioritisation methodology.
- d) To produce a capital programme based upon the prioritised scoring methodology .
- e) To monitor capital schemes and to summarise all variation reports received by client officers.
- f) To consider requests for capital bids during the year and, where the request is considered urgent, to score and prioritise within the whole programme, together with making funding arrangements.
- g) To review the scheme evaluation reviews and ensure lessons learnt and where necessary, to amend the Capital Protocol.
- h) To review all capital slippage and underspends at financial year end and re-evaluate with regards to the council's priorities and resources.

The criteria for capital bids include:

- a) Meeting Corporate Priorities or requiring Health and Safety action.
- b) Not having a revenue impact that cannot be funded.
- c) Being clear as to the benefits the project provides.
- d) Identifying how the project will be managed.
- e) Having robust estimates for future costs and revenues.
- f) The sensitivity of costs and revenues to both external and internal risks.

On the basis of recommendations drawn up by the CMT Capital Programme Group, Cabinet considers and approves the proposed draft capital programme for inclusion within the budget. This budget is then recommended to Full Council for approval of the final capital budgets for the year ahead. Cabinet is to receive quarterly capital budget monitoring reports and a final outturn report at year end showing scheme performance - specifically underspends, overspends and slippage supported by explanations.

### **7. Additional Resources and Links with External Bodies**

Project appraisals consider additional and alternative funding sources, match funding requirements, bidding time frames and the likely success in being awarded grants.

Grants are allocated in relation to specific programmes or projects and this council aims to maximise such funding; developing appropriate partnership, joint working and cross agency initiatives to address council priority needs. Partners include central and local government, government agencies, representative bodies of the local community, voluntary groups, housing associations, health bodies, the police, and the private sector business community.

**8. Asset Management**

An Asset Management Plan is the report on the systematic preparation of information to optimise the deployment and utilisation of land, buildings and other assets. Accordingly the council's Asset Management Plan informs the links to both the council's capital strategy and capital programme.

**9. The council's capital spending**

Details of the Council's capital programme, capitalisation policies, capital financing, borrowing/funding restrictions, commercial activity, knowledge and skills, long-term liabilities and treasury management are shown in the following documents (which are all available on the Council's website [www.thanet.gov.uk](http://www.thanet.gov.uk)):

- a) Medium Term Financial Strategy
- b) Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy
- c) Flexible Use of Capital Receipts Strategy
- d) Statement of Accounts
- e) Non-Treasury Investments Report
- f) Budget monitoring reports

The council's Section 151 Officer is satisfied with the affordability and risk associated with this Capital Strategy and, where appropriate, has access to specialised advice to enable him to reach this conclusion.

**ANNEX 5: THANET DISTRICT COUNCIL - NON-TREASURY INVESTMENTS REPORT  
2020-21**

**1. Background**

A revision to the CIPFA Treasury Management in the Public Services Code of Practice was issued in December 2017 (with guidance notes issued in July 2018), with a new requirement being that local authorities produce a Non-Treasury Investments Report for consideration and approval by Members.

'Treasury management investments' activity covers those investments which arise from the council's cash flows and debt management activity, and ultimately represents balances which need to be invested until the cash is required for use in the course of business.

'Non-treasury investments' are investments in financial assets and property primarily for service purposes and/or financial return that are not part of treasury management activity.

**2. Permissible non-treasury investments**

This council may:

- a) purchase property for service and/or commercial purposes.
- b) make investments for service and/or commercial purposes.
- c) make loans for service and/or commercial purposes.

Service investments are held in relation to operational services (including regeneration) whereas commercial investments are held for mainly financial reasons.

**3. Existing non-treasury investments**

This council's existing non-treasury investments include:

- a) Investment Property

The council's 2018-19 Statement of Accounts show a 31 March 2019 balance sheet value of £21,893,000 for investment property. These accounts disclose a net yield of £900,000 from investment property (rental income less direct operating expenses), which represents an annual percentage yield of 4.1%.

- b) Investments and Loans

East Kent Housing Limited (EKH): EKH is a company limited by guarantee without share capital, owned and controlled by this council, together with Canterbury City Council, Dover District Council and Folkestone & Hythe District Council. EKH, which was incorporated on 11 January 2011, is run as an Arms Length Management Organisation (ALMO) and its principal activity is to manage and maintain each of the four council's housing stock.

# Agenda Item 5

## Annex 5

On 17 October 2019 Cabinet agreed that the council's preferred option is to withdraw from EKH and return housing management services back in-house under direct management of the council, subject to formal consultation with all tenants (and leaseholders, as required) to satisfy the requirements of Section 105 of the Housing Act 1985.

Your Leisure Kent Limited (YL): This council engages YL, which is an Industrial and Provident Society with charitable status, to run its leisure facilities. YL was registered on the Mutuels Public Register on 16 April 1999 and was called Thanet Leisure Force Limited until 26 March 2013. The principal activity of YL is to manage leisure, catering and entertainment facilities and associated service provision for the local communities of Dover and Thanet.

East Kent Opportunities LLP (EKO): To aid economic development and regeneration in Thanet, this Council in partnership with Kent County Council set up EKO as a limited liability partnership. EKO was incorporated on 4 March 2008 with this Council and Kent County Council having 50:50 ownership, control and economic participation in EKO.

The council acts as guarantor for EKH in respect of its pension liability and for YL in respect of certain loans taken out by YL. These arrangements are described in the 'Critical Judgements in applying Accounting Policies' note to the council's Statement of Accounts.

In addition, the council makes loans from time to time to one or more of EKH, YL and EKO for service purposes.

#### **4. Housing Company**

On 25 July 2019 Cabinet agreed the principle of establishing a wholly owned housing company; subject to the approval of detailed proposals, controlling documents and funding.

For planning purposes, the council's capital estimates in the 2020-21 Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy (TMSS) include £1m pa for expenditure on the Housing Company capital project; the assumed aggregate capital spend being £5m. The expenditure would be for loan capital and/or share capital in the Housing Company, and its primary purpose would be for regeneration purposes.

The funding split assumed in the 2020-21 TMSS is 75% borrowing (£750k pa, £3,750k total) and 25% revenue (£250k pa, £1,250k total). This assumed borrowing is reflected in the 2020-21 TMSS estimates for the Capital Financing Requirement (CFR), Minimum Revenue Provision (MRP), external debt balances, operational boundary and authorised limits.

#### **5. Investment Management Practices**

Non-treasury investments are subject to the council's normal approval processes for revenue and capital expenditure and need not comply with the specific requirements of the council's annual Treasury Management Strategy Statement and Investment Strategy. These processes ensure effective due diligence and consideration of the council's risk appetite

# Agenda Item 5

## Annex 5

(including proportionality in respect of overall resources), that independent and expert advice is taken where appropriate, that scrutiny arrangements are properly made, and that ongoing risk management is properly undertaken and acted upon.

Details of risk management, performance measurement and management, decision making, governance, due diligence, reporting and knowledge and skills are shown below and in the following documents (which are all available on the council's website [www.thanet.gov.uk](http://www.thanet.gov.uk)):

- a) Medium Term Financial Strategy
- b) Treasury Management Strategy Statement, Minimum Revenue Provision Policy Statement and Annual Investment Strategy
- c) Flexible Use of Capital Receipts Strategy
- d) Statement of Accounts
- e) Capital Strategy

The key principle of control of risk, and optimising returns consistent with the council's risk appetite, is applied across all investment activities (including any commercially based investments). Where any commercial investment does not give priority for security and liquidity over yield, whether because of the nature of the asset itself or for service reasons, then such a decision should be explicit, the additional risks set out clearly, and the impact on financial sustainability identified and reported.

### **6. Risk Management**

The council's risk appetite for any non-treasury investment should be clearly determined, both individually and collectively, including the potential impact on the overall sustainability of the council if the investment does not perform as intended. Key considerations also include:

- a) The significance of the amount and variability of both the investment income and capital value to balancing the council's budget.
- b) How the investment is financed and its liquidity, given the council's cash flow requirements.
- c) Maximum periods for which funds may prudently be committed.
- d) The setting of quantitative indicators to better assess risk exposure (including how investments are funded and the rate of return over both the payback period of the investment and the length of any associated borrowing).

### **7. Performance Measurement and Management**

Performance measurement and management of any non-treasury investment should include both the ongoing capital value/security and yield. Key considerations include:

- a) Regular fair value assessments (at least annually), including the limitations and assumptions inherent in such assessments.
- b) Procedures to highlight key ongoing risks and changes in market conditions that may adversely impact the security, liquidity and/or yield of any investment.

- c) Ongoing repairs and other costs to maintain the income and value of any property investment.
- d) Any mitigating action required and undertaken to protect the income and value of any investment.

### **8. Decision Making, Governance and Due Diligence**

Decision making will be as open and transparent as possible, after allowing for any commercial sensitivity needs. Key considerations include:

- a) The formulation and developments of business cases for approval.
- b) Enhanced decision making and scrutiny, according to risk.
- c) Arrangements for professional due diligence, including obtaining professional advice where appropriate.
- d) The identification and quantification of any implied material subsidies in investments for service/regeneration purposes.

### **9. Reporting, Knowledge and Skills**

Robust arrangements will be made for the assessment, implementation and monitoring of any non-treasury investments; including:

- a) Reporting any material increase in risk to capital and/or yield.
- b) Regularly reviewing performance and risk reporting arrangements.
- c) Ensuring that the range of skills required (including finance, property and economic regeneration) are available, either in-house or externally sourced.
- d) Arranging any specific staff training or qualifications that may be needed to meet future requirements (capacity, skills, knowledge and culture).



**MEMBERS ALLOWANCES SCHEME 2020/21**

Council	<b>6 February 2020</b>
Report Author	<b>Nicholas Hughes – Committee Services Manager</b>
Status	<b>For Decision</b>
Classification:	<b>Unrestricted</b>
Key Decision	<b>No</b>
Ward:	<b>All Wards</b>

**Executive Summary:**

This report is provided to allow the Council to agree a new members allowances scheme for the 2020/21 financial year.

The main changes proposed after consultation with the Leader of the Council are to remove the Special Responsibility Allowances (SRA) for Assistant Portfolio Holders and to increase the Opposition Group Leader’s SRA to ensure parity with the SRA for the Chairman of the Overview and Scrutiny Panel. There is no proposed change to the basic allowance.

Once the scheme is agreed it will be forwarded to the East Kent Joint Independent Remuneration Panel for them to comment on. These comments will then be considered by Council at a future meeting.

**Recommendation(s):**

To adopt the proposed 2020/21 Members allowances scheme as set out at annex 1 to this report and to refer the scheme to EKJIRP for them to consider, with any amendments being reported back to Council.

**CORPORATE IMPLICATIONS**

<p><b>Financial and Value for Money</b></p>	<p>If Members agree to the revised scheme of Members allowances as outlined at annex 1 to this report, then there will be no direct financial implications as a result of this report.</p> <p>If Members agree to increase the rate of Members’ Allowances by more than that set out in the report, then additional budget or commensurate savings would need to be identified within the 2020/21 budget to cover this increase.</p>
<p><b>Legal</b></p>	<p>The Council is required to have regard to the recommendations of EKJIRP in making a scheme of allowances.</p> <p>Section 18 of the Local Government and Housing Act 1989 permits the Secretary of State, by regulations, to make a scheme providing for the payment of a basic allowance, an attendance allowance and a special responsibility allowance to members of a local authority. Section 100 of the Local Government Act 2000 permits the Secretary of State, by regulations,</p>

# Agenda Item 7

	<p>to provide for travelling and subsistence allowances for members of local authorities, allowances for attending conferences and meetings and reimbursement of expenses. In exercise of these powers the Secretary of State has made the Local Authorities (Members' Allowances) (England) Regulations 2003.</p> <p>The Regulations require the council to make a scheme before the beginning of each year for the payment of basic allowance. The scheme must also make provision for the authority's approach to special responsibility allowance, dependants' carers' allowance, travelling and subsistence allowance and co-optees' allowance. The scheme may also provide for other matters of the kind dealt with in the proposed scheme.</p> <p>When considering the scheme, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). This consideration should be supported by a proportionate level of equality analysis.</p>								
<b>Corporate</b>	The level of allowances may be seen as both impacting on the public's perception of the Council and a factor in making public services as a Councillor attractive to a broad range of potential candidates.								
<b>Equalities Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td style="width: 80%;">Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="text-align: center;">✓</td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td style="text-align: center;">✓</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table> <p>Although it does not directly relate to protected groups, the draft scheme contains the ability to pay a dependent carers allowance to Councillors. This contributes to aims 1 and 2 of the Equality Act as it removes barriers to Councillors standing who have relatives that may be in need of dependent care.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓	Foster good relations between people who share a protected characteristic and people who do not share it.	
Please indicate which aim is relevant to the report.									
Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓								
Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓								
Foster good relations between people who share a protected characteristic and people who do not share it.									

<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
Growth	<input type="checkbox"/>
Environment	<input type="checkbox"/>

Communities	✓
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## 1.0 Introduction and Background

1.1 This paper gives Council the opportunity to adopt a Members' Allowances Scheme for the 2020/21 financial year. The Leader of the Council has proposed two alterations to the 2019/20 scheme and these are outlined in the report below.

## 2.0 Proposed changes

### 2.1 Assistant Portfolio Holder SRA's

2.1.1 The 2019/20 scheme contained SRAs for five Assistant Portfolio Holders, each remunerated at £1500 per year. The Leader has asked that these be deleted from the scheme, as they are not currently used. This would result in a £7,500 saving.

### 2.2 Opposition Group Leader SRA

2.2.1 The Leader has requested that the Opposition Group Leader SRA be increased from £5,762 to £7,990. This is to better reflect that the role of the Opposition Group Leader is a complex and time consuming one, on a par with the role of the Overview and Scrutiny Chairman, for which the SRA is set at £7,990. In addition the level of the SRA has stayed virtually the same for the last ten years, as shown in table 1 below. Increasing the allowance would cost £2,228.

**Table 1**

Year (all increases on 1 April)	Opposition Leader SRA	Notes
2020/21	£7,990***	
2019/20**	£5,762	Increased due to reverting to one role
2019/20	£2,881	-
2018/19*	£2,881	Decreased due to the role being split in two.
2018/19	£5,204	-
2017/18	£5,204	-
2016/17	£5,204	-
2015/16	£5,204	-
2014/15	£5,204	-
2013/14	£5,204	-

2012/13	£5,204	-
2011/12	£5,204	-
2010/11	£5,204	-
2009/10	£5,204	-

\* allowance increased 12/4/2018

\*\*allowance increased 16/5/2019

\*\*\*Proposed SRA

### 2.3 Basic Allowance

2.3.1 Whilst it proposed to retain the current level of basic allowance for members, information set out at table 2 is the history of the basic allowance over the last ten years

**Table 2**

Year (all increases on 1 April)	Basic Allowance
2020/21	£4,570**
2019/20	£4,570
2018/19	£4,570
2017/18	£4,570
2016/17	£4,570
2015/16	£4,570
2014/15	£4,570
2013/14	£4,570
2012/13*	£4,570
2012/13	£4,360
2011/12	£4,360
2010/11	£4,360
2009/10	£4,360

\*allowance increased on 12/7/2012

\*\*Proposed basic allowance

2.4 When combined, the changes proposed would save the Council £5,272 per annum. The Leader has also requested that any savings as a result of these changes to the

# Agenda Item 7

allowances scheme are then reallocated to the Members training budget, allowing for Councillors to receive additional training either internally or externally.

2.5 There are no other proposed changes to the scheme at the present time. The amended scheme is attached to the report at Annex 1.

## 3.0 Options

3.1 Council can choose;

- a) To adopt the proposed 2020/21 Members' Allowances Scheme as set out at annex 1 to this report taking into account the changes outlined in the report and to refer the scheme to EKJIRP to consider, with any amendments being reported back to Council.
- b) To propose an alternative scheme of allowances for 2020/21 and to refer that scheme to EKJIRP to consider, with any amendments being reported back to Council.

## 4.0 Next Steps

4.1 It is for Council to agree the Members' Allowances Scheme. However the scheme and any amendments made would need to be the subject of consultation with the East Kent Joint Independent Remuneration Panel. The Remuneration Panel can then make recommendations back to Council, any recommendations will then be considered by Council at a future meeting.

Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Tim Howes, Director of Corporate Governance

## Annex List

Annex 1	2020/21 Draft Scheme of Members Allowances
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## Background Papers

Title	Details of where to access copy
None	N/A

## Corporate Consultation

<b>Finance</b>	Matthew Sanham Financial Services Manager
<b>Legal</b>	Timothy Howes, Director of Corporate Governance and Monitoring Officer

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# Part 6 - Members' Allowances

## Scheme 2020/21

- 1.1 This scheme is made in exercise of the powers conferred by The Local Authorities (Members' Allowances) (England) Regulations 2003 and of all other enabling powers, the Council having had regard to the recommendations made to it by an independent remuneration panel.
- 1.2 This scheme shall take effect on and from the 1 April 2020 and shall remain effective for the purposes of the determination and payment of any allowances to Members until it is next reviewed by Council.
- 1.3 Where a Member of the Council is also a Member of another authority, that Member may not receive allowances from more than one authority in respect of the same duties.
- 1.4 This scheme shall be construed in accordance with the meanings contained within the above Regulations.

### **Basic Allowance**

- 1.5 The annual entitlement to Basic Allowance for each Member is the amount detailed in **Schedule 1**.

### **Special Responsibility Allowance**

- 1.6 The annual entitlement to a Special Responsibility Allowance for each Member having a special responsibility is the relevant amount in relation to that responsibility detailed in **Schedule 1**.
- 1.7 Where a Member would otherwise be entitled to claim more than one Special Responsibility Allowance only one shall be payable, normally the higher unless the member gives notice in writing to the Committee Services Manager that he or she wishes to receive the lower.
- 1.8 Where Members of the Council are divided into at least two political groups and a majority belong to the same political group a Special Responsibility Allowance shall be paid to at least one person who is not a member of the controlling group.

### **Dependants' Carers' Allowance**

- 1.9 Members are entitled to claim Dependants' Carers' Allowance for expenses necessarily incurred in arranging care on account of any 'Approved Duty'. The current allowance is included in **Schedule 1**.
- 1.10 The definition of a dependant for the purpose of payment of this allowance is that used in S57A (3) of the Employment Rights Act 1996. This is a spouse or partner, a child, a parent, a person who lives in the same household but who is not an employee, tenant, lodger or boarder.

# Agenda Item 7

## Annex 1

- 1.11 Additionally the secondary carer must not be a member of the claimant's immediate family i.e. spouse or partner, other children of the Member or the Member's spouse or any member of the Member's family who lives at the same address as the Member. Nor can it be an employee, tenant, lodger or boarder who lives at that address.
- 1.12 Payment of Dependants' Carers' Allowances will be on the production of invoices and is limited to no more than one hundred hours per quarter. [**Note:** To avoid excess administration in processing claims, these should be submitted on a quarterly basis.]

### **Travelling and Motor Mileage Allowances**

- 1.13 Members will be reimbursed car mileage only from their home to place of duty and return in respect of attendance at Approved Duties, or as the Council's representative, in accordance with the rates set out in **Schedule 1**.
- 1.14 If a Member visits the vicinity of the place of duty for some other purpose and then goes directly to the approved duty, a claim should not be made.
- 1.15 Subject to paragraph 1.16 below, for journeys outside the District, car mileage reimbursement will be capped at the cost of an equivalent journey by public transport (meaning the standard open rail fare together with reasonable taxi/bus fares, parking charges and underground fares incurred, or which would have been incurred if the Member had travelled by public transport). If, however, the costs of an equivalent journey by public transport equals or exceeds car mileage costs, full mileage costs will be reimbursed.
- 1.16 Notwithstanding that the cost of car mileage reimbursement would exceed the cost of an equivalent journey by public transport, a Member will nevertheless be entitled to claim mileage for out of district travel:-
- (i) If he or she car shares with either an officer or one or more members, any of whom would have been entitled to make a mileage claim had they travelled independently; or
  - (ii) If the Committee Services Manager agrees in writing that the meeting, seminar, conference, event, presentation, service or other approved duty that necessitated the journey was not reasonably practical to make by public transport due to any or a combination of the following factors:-
    - the distance from the members home to the nearest railway station;
    - the location of the meeting;
    - the start or finish time of the meeting;
    - the amount of luggage to be taken; and
    - the overall journey time on public transport compared to travel by car.
- 1.17 The written agreement of the Committee Services Manager under paragraph 1.16 above should normally be sought in advance of the intended journey but in



# Agenda Item 7

## Annex 1

exceptional circumstances may be obtained subsequently. In addition, where it is likely that a Member will be travelling to the same destination one more than one occasion, the Committee Services Manager shall be entitled to give the Member his agreement in writing to all such journeys.

- 1.18 Travelling and motor mileage allowances may be payable for attendance at any official meetings of the Council to which members of more than one party are invited to attend and also for representation on those bodies included in **Schedule 2**.

### **Subsistence**

- 1.19 Payment of subsistence allowances in connection with any approved duty shall be in accordance with the provisions, including the maximum amounts payable, set out in **Schedule 1**.

### **Explanation of "Approved Duty"**

- 1.20 Approved Duties comprise the following:-
- a) a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee of such a body;
  - b) any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and one or more other authorities, or a sub-committee of such a joint committee, provided that –
    - i) where the authority is divided into two or more political groups, it is a meeting to which members of at least two such groups have been invited, or
    - ii) if the authority is not so divided, it is a meeting to which at least two members of the authority have been invited;
  - c) a meeting of any association of authorities of which the authority is a member.
  - d) the carrying out of any other duty approved by the Council, or any duty of a class so approved, for the purpose of or in connection with the discharge of the functions of the Council or any of its committees or sub-committees. [Attendances at meetings of the bodies listed in Schedule 2 have been approved.]
  - e) There is also a general duty permitting the Leader or nominated deputy to represent the Council at formal meetings not specified elsewhere, with other authorities, official bodies or agencies for the purposes of any function of the Council, but excluding meetings organised by private individuals or commercial organisations.
- 1.21 Scrutiny Panel Members attending meetings of the Cabinet are entitled to claim travelling allowance and any Member speaking on an issue relevant to their Ward at a meeting of the Cabinet with the consent of the Leader or in accordance with Council rules is also entitled to claim travelling allowance.

# Agenda Item 7

## Annex 1

- 1.22 If any Overview or Scrutiny Panel requires a Member of the Cabinet to attend before it in relation to matters within that Member's remit, then that Member is entitled to claim travelling expenses.
- 1.23 Where Cabinet Members attend non-executive meetings to observe only this is not deemed to be an approved duty and travelling expenses will not be paid.
- 1.24 Where any Member attends any Committee to speak on an item with the Chairman's consent, this attendance will be an approved duty for payment of travelling expenses.
- 1.25 Members are entitled to claim travelling expenses for Committee briefings and for all Partnership meetings or Chairman and Vice-Chairman meetings with the Lead Officer and these meetings are therefore approved duties.
- 1.26 This Scheme does not allow for travelling expenses to be paid to individual Members arranging meetings with officers as this is deemed to be part of the Member's role and Members' allowances paid are calculated to reflect these extra duties.
- 1.27 For any other ad hoc briefings e.g. on major developments, Members from all political groups with in excess of 5 Members will need to be invited to these briefings in order for travelling allowances to be paid.
- 1.28 No allowance shall be payable if such payment would be contrary to provision made by or under any enactment.
- 1.29 Members who attend committee meetings of which they are not a member (under Council Procedure Rule 20(1)) shall be entitled to claim travelling expenses.
- 1.30 Co-opted and Independent members shall be treated as Members of the Council for the purposes of Approved Duties.

### **Renunciation**

- 1.31 A Member may, by notice in writing given to the Democratic Services and Scrutiny Manager, elect to forego any part of his/her entitlement to an allowance under this scheme.

### **Part Year Entitlements**

- 1.32 The provisions of this paragraph shall have effect to regulate the entitlements of a Member to Basic and Special Responsibility Allowances where in the course of the year
  - The Scheme is amended; or
  - That Member becomes, or ceases to be, a Member, or
  - He/she accepts or relinquishes a special responsibility in respect of which a Special Responsibility Allowance is payable
- 1.33 If an amendment, or amendments, to this scheme change(s) the amount of the Basic Allowance or a Special Responsibility Allowance to which a Member is entitled, then for each period in a particular year during which the relevant amounts are applicable, the entitlement to such allowance(s) shall be calculated on the basis of the equivalent

# Agenda Item 7

## Annex 1

daily rate(s) that is/are applicable to the relevant periods.

- 1.34 Where the term of office of a Member begins or ends at any time other than at the beginning or end of a year, the entitlement of that Member to a Basic Allowance shall be calculated on the basis of the equivalent daily rate that is applicable to the relevant period.
- 1.35 Where both:
- this Scheme is amended as described in sub-paragraph 1.32; and
  - the term of office of a Member begins and/or ends as described in paragraph 1.33; then
  - the entitlement of any such Member to a basic allowance shall be calculated on the basis of the equivalent daily rate that is applicable to the relevant periods.
- 1.36 Where a Member has during part of, but not throughout, a year such special responsibilities as entitle him/her to one or more Special Responsibility Allowances, that Member's entitlement shall be calculated on the basis of the equivalent daily rate(s) that is/are applicable to the relevant periods.
- 1.37 Where this scheme is amended as mentioned in paragraph 1.32 and a Member has during part, but does not have throughout the whole, of any period mentioned in paragraph 1.33 any such special responsibilities as entitle him/her to one or more Special Responsibility Allowances, that Member's entitlements shall be calculated on the basis of the equivalent daily rate(s) that is/are applicable to the relevant periods.

### **Repayment and Withholding of Allowances**

- 1.38 Where payment of any Basic Allowance or Special Responsibility Allowance has already been made after a Member, ceases to be a Member of the Council or is in any other way not entitled to receive any such allowance in respect of that period, the Council may require that such part of the allowance as relates to any such period be repaid.

### **Payments and Claims**

- 1.40 Allowances will be paid in instalments of one-twelfth of the amounts specified in this scheme by BACS transfer on the 19<sup>th</sup> of the month, one month in arrears.
- 1.41 Where a payment of one-twelfth of the amount specified in this scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Member receiving more than the amount to which, by virtue of paragraph 1.33, he/she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he/she is entitled.
- 1.42 Claims for Dependents' Carers' Allowances, Travel and Subsistence Allowances and Co-optee's Allowance (if applicable) shall be made within three months from the date on which an entitlement arises.
- 1.43 Nothing in the above paragraph shall prevent the Council from making a payment where an allowance is not claimed within that period.

**Pensions**

- 1.44 In accordance with the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, no Member of Thanet District Council is entitled to be a member of the Local Government Pension Scheme after 11 May 2015.

With effect from the 1st day of April 2020 pursuant to a resolution of the Thanet District Council passed on the X February 2020.

MEMBERS' ALLOWANCES SCHEME – 2020/21

**Basic Allowance**

£4,570 each Member x 56 = £255,920

**Special Responsibility Allowances**

Position	Number	Allowance £	Possible maximum expenditure £
<b>Executive</b>			
Leader	1	18,082	18,082
Deputy Leader	1	10,776	10,776
Cabinet Portfolio Holder	3	7,990	23,970
<del>Assistant Portfolio Holder</del>	<del>5</del>	<del>1500</del>	<del>7,500</del>
<b>Non-Executive</b>			
Chairman of Council	1	2,188	2,188
Vice Chairman of Council	1	1,530	1,530
Opposition Group Leader	1	<del>5,762</del> 7,990	<del>5,762</del> 7,990
Deputy Opposition Group Leader	1	2,862	2,862
Opposition Spokesperson	3	2,862	8,586
Scrutiny Panel Chairman	1	7,990	7,990
Scrutiny Panel Vice-Chairman	1	3,216	3,216
Planning Committee Chairman	1	5,204	5,204
Planning Committee Vice-Chairman	1	1,216	1,216
Licensing Committee Chairman	1	3,216	3,216
Licensing Committee Vice-Chairman	1	805	805
Governance and Audit Committee - Chairman	1	5,204	5,204
Governance and Audit Committee – Vice-Chairman	1	1,216	1,216
Standards Committee - Chairman	1	1,216	1,216
Standards Committee – Vice-Chairman	1	400	400

# Agenda Item 7

## Annex 1

Standards Committee – other Independent Member	2	250	500
“Independent Person”	1	250	250
Substitute “Independent Person”	1	100	100
JTB Chairman	1	1,216	1,216
<b>TOTAL SRAs only</b>			<b><del>412,905</del> £107,633</b>

Total basic + SRAs = ~~£368,925~~ £363,553

(1) Co-optees and "independent" Members shall be treated as Members of Thanet District Council for this purpose.

### Dependants' Carers' Allowances

An allowance for any approved duty of ~~£7.83~~ £8.72 per hour (or the national living wage whichever is higher) subject to the conditions set out in paragraph 4 of the 'Members Allowances Scheme'.

### Motor Mileage Allowance

Payable in accordance with the Mileage rates as set out in the TDC staff travel plan:

For the duration of this scheme the rates are as follows:

- (i) For journeys within the District (casual user rate)
  - 21.69 pence per mile
- (ii) In exceptional circumstances and provided approval of the Democratic Services and Scrutiny Manager is obtained prior to the journey (see paragraph 1.16 of the Scheme) for journeys outside the District (essential user rate)
  - 45 pence per mile\*
- (iii) Journeys by rail outside the District
  - standard open class rail fare
- (iv) Cycling Allowance (HMRC Guidance)
  - 20.4p per mile

\* Normally for journeys outside of the district the equivalent of a standard open class rail will be paid.

### Subsistence Allowances

Subsistence allowances will be payable to Members who are prevented by their official duties from taking a meal at their home, or place of work where they normally take their meals, and thereby incur additional expenditure. A Member will be required to submit receipts in order for reimbursement to be made.

# Agenda Item 7

## Annex 1

### **Overnight Accommodation**

Members who are required to make overnight stays in the performance of their official duties should, whenever possible, pre-book accommodation of an appropriate standard and obtain approval from the Head of Legal and Democratic Services. Arrangements should be made for an invoice to be submitted directly to the Council. If this is not possible, a detailed VAT receipt MUST be obtained to substantiate the claim.

### **Out of Pocket Expenses**

Expenses are claimable if a Member is required to stay away from home overnight. They cover such items as newspapers and personal telephone calls.

### **Allowances payable as at 01/04/2020**

	<b>Subsistence Allowances (£)</b>	
<b>Subsistence</b>	Breakfast	7.36
	Lunch	10.17
	Tea	4.03
	Evening Meal	12.59
<b>Out of pocket expenses</b>	Per night	5.73
	Per week	22.90

#### **DUTIES WHICH ARE APPROVED FOR THE PURPOSE OF CLAIMING TRAVELLING & SUBSISTENCE**

##### **Representation on the following bodies**

Action with Communities in Rural Kent (T)  
Age UK: Thanet (T)  
British Ports Association (TS)  
British Destinations (AGM, Annual Conference and Executive meetings) (TS)  
Campaign to Protect Rural England (T)  
Canterbury Festival (T)  
Citizens' Advice Bureau, Thanet (T)  
Community Safety Partnership (T)  
Domestic Violence Forum (T)  
East Kent Housing Board (T)  
East Kent Housing Area Board (T)  
East Kent Opportunities Ltd  
East Kent Relate (T)  
East Kent Spatial Development Company  
Kent and Medway Independent Persons Forum (T)  
Kent International Airport Consultative Committee (T)  
Kent Police and Crime Panel (T)  
Local Government Association Coastal Special Interest Group (TS)  
Local Government Association Strategic Aviation Specialist Interest Group  
Local Government Association District Council's Network (TS)  
Local Government Association (General Assembly) (TS)  
Local Government Association (Rural Commission) (TS)  
Margate Town Partnership (T)  
Millmead Children's Centre Partnership  
Multiple Sclerosis Society (T)  
Parking and Traffic Regulation Outside London (Adjudication Joint Committee) (T)  
Powell Cotton Museum and Quex House (T)  
River Stour (Kent) Internal Drainage Board (T)  
Sandwich and Pegwell Bay National Nature Reserve Steering Group (T)  
South East England Councils (SEEC) (TS)  
Supporting People in Kent Commissioning Body (T)  
Thanet Countryside Trust (T)  
Thanet Harbour Users' Groups (T)  
Thanet Quality Bus Partnership (T)  
Thanet Rural Regeneration Group (T)  
Thanet Sports Network (T)  
Thanet Volunteer Bureau (T)  
The Friends of Margate Cemetery Trust (T)  
Trust for Thanet Archaeology (T)  
Tourism South East (T)  
Your Leisure Thanet Sub-Group (T)  
Youth Advisory Group (T)  
(TS) Travel and Subsistence allowance may be claimed.  
(T) Travel allowance only may be claimed.



**STANDING ORDERS IN RELATION TO STAFF**

Council	<b>6 February 2020</b>
Report Author	<b>Director of Corporate Governance and Monitoring Officer</b>
Status	<b>Recommendation</b>
Classification:	<b>Unrestricted</b>

**Executive Summary:**

This report sets out the revisions to the constitution which are required for setting out the arrangements for dealing with disciplinary action against the Council’s Statutory Officers (Head of Paid Service, Chief Finance Officer and Monitoring Officer) in order to comply with the The Local Authorities (Standing Orders) (England) Regulations 2001 (the 2001 Regulations) as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the 2015 Regulations).

**Recommendation(s):**

Council is recommended:

- a) to create an Investigation and Disciplinary Sub-Committee and Disciplinary Appeals Sub-Committee as sub-committees of the General Purposes Committee , as set out in Annex 1;
- b) to appoint an Independent Persons Panel, agree its terms of reference, as set out in Annex 1, and agree that it should comprise three Independent Persons;
- c) to agree to pay a fee to Independent Persons appointed to the Independent Persons Panel equal to the agreed rate paid in respect of their role in advising Council on Councillor Conduct issues;
- d) to amend the Employment Rules, as set out in Annex 2;
- e) to delegate to the Committee Services Manager authority to invite and appoint members to serve on the Independent Persons Panel as set out in paragraph 5 of the report
- f) to delegate authority to the Chief Executive (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) to immediately suspend the Monitoring Officer or Section 151 Officer where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend.
- g) to delegate authority to the Monitoring Officer (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) to immediately suspend the Chief Executive, where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend”.

<b>CORPORATE IMPLICATIONS</b>									
<b>Financial and Value for Money</b>	<p>The proposals will result in costs being incurred in relation to the appointment of an Independent Investigator and also if the Investigation and Disciplinary Sub-Committee, the Disciplinary Appeals Sub-Committee or the Independent Persons Panel decides to commission external legal and professional advice. In addition, the Members of the Independent Persons Panel are entitled to receive a fee, which must not exceed the rate payable to that person in respect of their role in advising the Council on Councillor Conduct issues. Any costs will be met from within existing budgets.</p>								
<b>Legal</b>	<p>The The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to make or modify standing orders to include certain provisions relating to staff and other matters.</p> <p>The Council amended the Employment Rules in February 2016 to comply with the broad requirements of the Regulations but left the details to be resolved later due to uncertainty over the operation of the rules. The proposals in this report are compliant with the 2015 Regulations.</p> <p>The Independent Persons Panel is an advisory committee of the Council appointed under S.102 (4) of the Local Government Act 1972.</p>								
<b>Corporate</b>	<p>The Council is vulnerable to claims if its processes do not fully comply with the legislation and its contractual obligations. The proposals have been agreed with Kent Monitoring Officers following advice from Counsel on key issues.</p>								
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td colspan="2" style="padding: 2px;">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td style="padding: 2px;">Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="padding: 2px; text-align: center;">✓</td> </tr> <tr> <td style="padding: 2px;">Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td style="padding: 2px; text-align: center;">✓</td> </tr> <tr> <td style="padding: 2px;">Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td style="padding: 2px; text-align: center;">✓</td> </tr> </table> <p>There are no direct equalities implications.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓	Foster good relations between people who share a protected characteristic and people who do not share it.	✓
Please indicate which aim is relevant to the report.									
Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓								
Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓								
Foster good relations between people who share a protected characteristic and people who do not share it.	✓								

# Agenda Item 8

<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

<b>CORPORATE VALUES (tick those relevant) ✓</b>	
Delivering value for money	
Supporting the Workforce	✓
Promoting open communications	

## **1.0 Introduction and Background**

- 1.1 The Council's Employment Rules and Prescribed Standing Orders must stipulate that the Council's Statutory Officers (i.e. The Head of Paid Service, Monitoring Officer and Chief Finance Officer) may not be dismissed by the Council unless in accordance with the requirements of the 2001 Regulations as amended by the 2015 Regulations.
- 1.2 Decisions on the arrangements needed to comply with these Regulations are a matter for Council.

## **2.0 Background**

- 2.1 The Local Government Act 1972, the Local Government Finance Act 1988 and the Local Government and Housing Act 1989 require local authorities to designate officers as the "head of paid service", the "monitoring officer" and the officer "responsible for the administration of the authority's financial affairs" (called the "chief finance officer" or "section 151 officer"), each of whom has a personal statutory duty to report to Cabinet or Full Council in certain circumstances. Their duties are, in very broad terms, to prevent or highlight organisational, legal or financial problems. This Council has designated the Chief Executive, the Director of Corporate Governance and the Deputy Chief Executive to these respective roles.
- 2.2 As a result of the personal duties upon them, the post holders have a degree of statutory protection from dismissal or other disciplinary action. Before the 2001 Regulations as amended by the 2015 Regulations, referred to above, there was a requirement to appoint a Designated Independent Person (DIP) to undertake an investigation where disciplinary proceedings were contemplated against a Statutory Officer. The Council or a relevant Committee was obliged to consider that report before making a decision involving disciplinary sanction or dismissal of a Statutory Officer. Under the previous rules, only Full Council could dismiss the Head of Paid Service. The Monitoring Officer and Chief Finance Officer could be dismissed by a Committee. The DIP procedures dated back to 1993 but the concept of statutory protection is a much older one.
- 2.3 In March 2015, the 2001 Regulations 2001 were amended by the 2015 Regulations. The amendments changed the procedure which local authorities must follow before dismissing the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (the Statutory Officers). The 2001 Regulations required the Council to include in its Constitution, Standing Orders which deal with the appointment and dismissal of staff with particular provisions relating to the statutory officers.

- 2.4 The Department for Communities and Local Government (DCLG) had cited issues of complexity and expense associated with the previous regime as the reasons for bringing forward this legislative change. The 2001 Regulations as amended by the 2015 Regulations, sought to introduce a new streamlined procedure while attempting to retain an independent check within the system by giving the ‘Independent Persons’ (IPs) appointed to support the Members’ conduct framework a role in the disciplinary and dismissal process for these three officers.
- 2.5 The Council’s Employment Rules were revised as part of the review of the Constitution in 2016, but they are silent as to the specific procedures which the Council will adopt if disciplinary action is to be taken against one of the Statutory Officers. Nor does the Constitution currently contain the “machinery” required to operate the new procedures. This is because there has been uncertainty as to how the legislation ought to be applied in practice.
- 2.6 The 2015 Regulations, as drafted, raised some fundamental questions about their scope, an apparent conflict with the Localism Act 2011 (see paras 5.12-5.13 below) and how, if at all, an appeal against a decision to dismiss could be incorporated into the new arrangements. Additional uncertainty was caused by the fact that the previous DIP process was embedded within the terms and conditions for Chief Executives as set out in the Joint Negotiating Committee (JNC) for Local Authority Chief Executives handbook. The latter only has contractual effect where an authority has agreed to be bound by JNC terms and conditions. Until October 2016, when the JNC issued a new handbook, there was a scenario where the contractual obligations owed under JNC terms required different steps to be taken to those set out in the new Regulations. The procedures proposed in this paper are largely modelled on what is contained in the new JNC handbook.
- 2.7 To try and resolve these issues discussions have taken place with other Monitoring Officers through the Kent Secretaries Group who have sought clarification from the Government as well as instructing Counsel on several key issues. The Group has now reached a Kent wide view on the most appropriate way to implement the new arrangements.

### **3.0 The New Process for Dismissal**

- 3.1 The 2001 Regulations as amended by the 2015 Regulations replaced the previous Designated Independent Person (DIP) arrangements with a new system. There is now no requirement to appoint a DIP where disciplinary action against a Statutory Officer is being considered and instead full Council must approve the dismissal of any of the Statutory Officers (previously this had only applied to the Head of Paid Service).
- 3.2 The Regulations stipulate that the following procedure must be followed before a Statutory Officer can be dismissed: The Council must invite a number of independent persons (“IPs”) to be appointed to a Panel. (These are the same independent persons who have been appointed to advise the Council on member conduct complaints under the Localism Act 2011.) The Council must appoint IPs who have accepted such an invitation to a Panel at least 20 days before the Council takes a decision to approve the dismissal of a Statutory Officer. Full Council must then meet and, before a vote is taken on whether or not to approve the proposed dismissal, it must take into account any advice, views or recommendations of the Panel as well as the

conclusions of any investigation and any representations made by the officer concerned.

- 3.3 The Ministry for Housing, Communities and Local Government (MHCLG) was asked if the new arrangements were limited to dismissal on conduct grounds or whether they also applied in cases of dismissal due to ill health or redundancy etc. MHCLG have clarified that the procedures set out in paragraph 3.2 only apply to dismissal on disciplinary grounds. However, if one of the Statutory Officers was to request that these procedures be invoked where dismissal was proposed on grounds other than conduct then it is considered such a request should be agreed to.
- 3.4 The The Local Authorities (Standing Orders) (England) Regulations 2001 define disciplinary action as follows: *“any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract; ”*
- 4.0 The JNC for Local Authority Chief Executives Model Disciplinary Procedure for Disciplinary Action.**
- 4.1 The JNC October 2016 handbook contains a model disciplinary procedure. Whilst this procedure only applies to those Heads of Paid Service who are subject to JNC terms and conditions, it is recommended that these procedures (in relation to disciplinary action) should be followed (with some minor deviations) and also applied to the other Statutory Officers too (i.e. to the Monitoring Officer and the Section 151 officer).
- 4.2 The main features of the JNC model procedure are:
- a) That there should be a standing Investigation and Disciplinary Committee which oversees any disciplinary process and determines the outcome. (It is recommended that this role is carried out by a sub-committee of our General Purposes Committee)
  - b) That any disciplinary investigation should be carried out by an Independent Investigator.
  - c) That there should be a Disciplinary Appeals Committee to consider any appeal against a decision of the Investigation and Disciplinary Committee to take any disciplinary action short of dismissal. (It is recommended that this is a Council Committee of 5 members).
- 4.3 The model procedure suggests that any decision to suspend the Head of Paid Service should be made by a Committee, but that the power to make such a decision in urgent circumstances should be delegated to the Chairman of the Committee. However, this cannot lawfully be delegated to a single Member and as such is not recommended in this paper.
- 4.4 At present the Chief Executive and Directors have the power to discipline, suspend and dismiss employees in accordance with the Council’s disciplinary procedure and capability procedures. However, in keeping with the principle of a consistent application of the protections to all of the Statutory Officers, it was proposed by the Constitutional Review Working Party, that the Investigation and Disciplinary

## Agenda Item 8

Sub-Committee, formed from the General Purposes Committee had responsibility for deciding whether or not to suspend a Statutory Officer.

- 4.5 The model procedure says that any suspension of the Head of Paid Service (and so, by extension, the Monitoring Officer and S151 officer) is reviewed after a period of two months by a Committee. In doing so it should consult with the Independent Investigator and consider any representations from the officer concerned.
- 4.6 The model procedure makes provision for the Investigation and Disciplinary Committee and the Disciplinary Appeals Committee to include a Cabinet Member.
- 4.7 Amendments will be made to the Employment Rules to reflect the model procedure. The proposed amended Rules are attached as Annex 2.
- 4.8 The numbers on the General Purposes Committee will have to be increased from ten to twelve to allow an even split which complies with the proportionality rules.

### **5.0 Proposals for Change**

#### **a) Disciplinary action**

- 5.1 The words “disciplinary action” in relation to a member of staff of a local authority has a specific meaning under the 2001 Regulations (set out earlier).

#### **b) Investigation and Disciplinary Sub-Committee (formed from the General Purposes Committee)**

- 5.2 The terms of reference of the Investigation and Disciplinary Sub-Committee (formed from half the members of the General Purposes Committee) need to include the power to decide whether any of the Statutory Officers should be suspended and to also determine whether any allegation against any of the Statutory Officers warrants investigation. It is recommended that when the Sub-Committee is exercising this power that, for consistency, unless a Member is unavoidably indisposed or conflicted, the same Members shall comprise the Sub-Committee until the matter has been dealt with fully. It is recommended that the same approach be applied to the Disciplinary Appeals Sub-Committee.
- 5.3 The Investigation and Disciplinary Sub-Committee would appoint an Independent Investigator. The Sub-Committee will consider any report of the Independent Investigator and, if appropriate conduct a hearing. The Sub-Committee may determine that no action should be taken, that some action short of dismissal should be taken, or propose that the officer should be dismissed.
- 5.4 If the action taken is short of dismissal the officer should have the right to appeal that decision.
- 5.5 If the Investigation and Disciplinary Sub-Committee recommends that the officer should be dismissed it will forward its proposal and the necessary information to the Independent Persons Panel. The Panel will consider the proposal and the necessary particulars and decide what advice, views or recommendations to make to full Council. Full Council will decide whether or not to dismiss the officer, having regard to

any advice, views or recommendations of the Panel, the conclusions of any investigation, and any representations from the officer.

## **c) Disciplinary Appeals Committee (formed from the General Purposes Committee)**

- 5.6 It is proposed to set up a Disciplinary Appeals Committee formed from the other half of the members of the General Purposes Committee to determine any appeals by one of the statutory officers against a decision by the General Purposes Committee to take disciplinary action short of dismissal.
- 5.7 The new sub-committee clearly cannot comprise any of the members of the Investigation and Disciplinary Sub-Committee who originally heard the matter.

## **d) The Independent Persons Panel**

- 5.8 It is recommended that a standing Independent Persons Panel should be established, comprising three Independent Persons (IPs) and a substitute IP, appointed in priority order in accordance with the Regulations. The Panel will be an advisory committee of the Council. The substitute would take the place of any IP who was unable to participate because he or she was not available at the time, or had a personal conflict of interest. The Council currently has two IPs. In line with the priority order set out in the 2015 Regulations the Council's two IPs would be invited to serve on the Panel first and then an invitation would be extended to an IP from another authority in Kent. It is recommended that the Committee Services Manager is authorised to make these invitations.
- 5.9 If a Council has fewer than two IPs, it must extend the invitation to one or more IPs from another authority. If more accept the invitation than are needed, then appointments must be made in the following priority order:
- An IP appointed by the Council who is on the electoral register in Thanet
  - Any other IP appointed by the Council
  - An IP who has been appointed by another authority
- 5.10 At least two of the IPs who have accepted the invitation must be appointed, but there is no upper limit. They can be paid an allowance or expenses, but no more than they would receive for their Localism Act work. The appointment must be made at least 20 days before the Council takes a decision to approve the dismissal of a Statutory Officer. At the full Council meeting, the authority must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer concerned.
- 5.11 The JNC for Local Authority Chief Executives (the JNC) has sought clarification from MHCLG on whether the Panel referred to above should be comprised solely of independent persons or whether it can, or should, also include elected members. MHCLG has indicated that the intention is that this Panel should consist solely of IPs "so that independent scrutiny can be attained before a full council takes the final decision on a dismissal motion". The proposal is therefore to follow that approach as this emphasises the independence of the Panel while still ensuring Member involvement at every other stage of the process.

- 5.12 One of the difficulties in implementing the amendments from the 2015 Regulations has been its apparent incompatibility with the Localism Act in relation to the appointment of independent persons. S. 28(8) of the Localism Act provides that any independent person appointed to provide a view on councillor conduct issues is ineligible to be appointed to this position if they are a voting co-opted member of a committee of the council (and/or hold such a position at any time during the 5 years ending with the appointment). However, an independent person appointed to an Independent Persons Panel under the 2015 Regulations will become a voting co-opted member of a committee of the council. The Council could decide not to give them a vote but that is not recommended as it is difficult to see how the Panel can come to a view on a matter if Panel Members do not have voting rights.
- 5.13 Counsel's advice is that, ultimately, the two pieces of legislation are not in irreconcilable conflict "because appointment to an IP (i.e. the Independent Persons Panel) cannot itself be regarded as disqualifying an Independent Person (IP) from being such on the basis that the very appointment makes them a co-opted member". An IP appointed under the Localism Act is not excluded from continuing in this role by virtue of being appointed as a voting member of the Independent Persons Panel as on that logic they would be prevented from serving on the Panel as they would no longer be an independent person.
- 5.14 The Kent Secretaries Group have agreed in principle reciprocal arrangements whereby each Council is able to invite the IP of another council in Kent to serve on the Independent Persons Panel. This proposal is being explored with the Independent Persons and contact is being made with the Chair of their Forum to seek their agreement to this reciprocal arrangement. Therefore it would be possible for the Independent Persons Panel to comprise one or more IPs from other authorities.
- 5.15 The proposed revised Terms of Reference for the General Purposes Committee and its new Sub-Committees, and the terms of reference for the Independent Persons Panel are attached at Annex 1.

## **6.0 Options**

- 6.1 The Council could have the whole General Purposes Committee with the responsibility of the Investigation and Disciplinary Sub-Committee and establish a new standing Disciplinary Appeals Committee to carry out the appeal functions.

## **7.0 Advice and analysis**

- 7.1 The model procedure adopts a balanced approach to the need to set up a new disciplinary process, which will ensure that the Council has a fair process which is unlikely to be susceptible to successful challenge. It has taken over a year for the JNC to reach agreement on this process. Any attempt to seek local agreement to a different process is likely to cause further delay and it may be difficult to reach agreement. Any alternative process would have to be fair and comply with employment law, so it would be unlikely to be radically different from the model procedure.
- 7.2 The protection rules which apply to the Statutory Officers are an important means of ensuring good governance and maintaining high standards of legal, ethical and



financial conduct and probity. The proposals in this report have been formulated in such a way that implements the 2001 Regulations as amended by the 2015 Regulations, maintains those protections and governance safeguards while also minimising the costs and risks to the Council.

- 7.3 A flowchart detailing the processes for dealing with allegations in relation to disciplinary matters relating to the Council's Statutory Officers is attached at Annex 3.

### **8.0 Independent Persons**

- 8.1 The Independent Persons who will comprise the Independent Persons Panel are the same independent persons appointed by the Council to advise on councillor conduct matters.

- 8.2 A person may not be appointed as an Independent Person (i.e. to advise on councillor conduct issues) if that person:

(a) is a member, co-opted member or officer of the Council or a parish/town council in Thanet, or

(b) is a relative, or close friend of such a person, or

(c) has been a member, co-opted member or officer of the Council or a parish/town council in Thanet in the previous 5 years.

- 8.3 The Council must advertise any vacancies for an Independent Person and applicants must submit an application form before they can be appointed. Only Full Council can make the appointment, which must be approved by a majority of the Members of the Council.

### **9.0 Decision making in cases of a need to urgently suspend one of the statutory chief officers**

- 9.1 Where there is a need to urgently suspend one of the Statutory Officers. The Investigation and Disciplinary Sub-Committee is given the power to suspend any of the Statutory Officers. Such a decision could not be lawfully delegated to the Chairman of the Committee or any other Member but there remains a gap where the seriousness of a situation meant there was an urgent need to suspend one of the officers and it was not feasible to wait until the statutory five days' notice of a public meeting had been given. This is particularly an issue in the case of the Head of Paid Service as it would be possible for them to be given the power to suspend the Monitoring Officer or the S.151 Officer in a situation of urgency.

- 9.2 It was therefore recommended to the Constitutional Review Working Party that the Chief Executive be given the explicit authority, following consultation with the Chairman of the General Purposes Committee where practicable, to suspend the Monitoring Officer or the S.151 Officer in cases of urgency. If agreed the following additional amendment to the Employment Rules is suggested:

*"In cases of urgency the Head of Paid Service may suspend the Chief Finance Officer or the Monitoring Officer, following consultation with the Chairman of the General Purposes Committee where practicable whilst an investigation takes place into alleged misconduct. The Head of Paid Service shall, before deciding to suspend,*

## Agenda Item 8

*invite the officer to make representations unless it is impractical to do so. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend”.*

- 9.2 This option of suspension was rejected by the Constitutional Review Working Party, since it did not provide equality amongst the three statutory officers. Instead it was felt that all three statutory officers should be subject to urgent suspension by the Investigation and Disciplinary Sub-Committee. This is described in 9.3 below.
- 9.3 If there was an urgent need to suspend the Head of Paid Service (or other statutory officer), the Council could in theory rely on an implicit power in the Local Government (Access to Information) Act 1985 to convene a meeting of a Committee (in this case the General Purposes Committee) by giving shorter notice than the prescribed 5 clear days. The Act does not specify in what circumstances this provision can be relied on and, as such, it is rarely invoked because of the risk of challenge. If this provision was to be used then the Council would need to be able to demonstrate that it had used this power reasonably and for good reasons. The view of the Monitoring Officer is that this is a power the Council could justify relying on in circumstances where there was an urgent need to suspend the Head of Paid Service, but it is not without a risk of challenge.
- 9.4 The issue of immediate suspension in exceptional circumstances was reviewed after the CRWP meeting and brought back to the Standards Committee on the 9 January 2020. It was explained that there were exceptional circumstances which may arise where the allegations of misconduct are such that an officer remaining present at work poses a serious risk to the investigation; or the health and safety of others; or the resources, information or reputation of the authority.
- 9.5 In those circumstances, it was recommended that authority be delegated to the Chief Executive (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) to suspend the Monitoring Officer or Section 151 Officer where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council.
- 9.6 In order to maintain the principle of a consistent application of the protections to all of the Statutory Officers, it was recommended that a parallel authority was delegated authority to the Monitoring Officer (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) to suspend the Chief Executive, where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council.
- 9.7 The proposed procedures require that any suspension must be reviewed every two months by the General Purposes Committee and, for those meetings, the usual period of notice (i.e. 5 clear days) would be given.

### **10.0 Views of the Constitutional Review Working Party**

- 10.1 This report was reviewed by the Constitutional Review Working Party on 21 June. The changes suggested by the Constitutional Review Working Party have been included in this report.
- 10.2 The main changes were:
- a. Increasing the membership of the Disciplinary Appeals Committee from three to five members
  - b. Making clear that the Disciplinary Appeals Committee and General Purposes Committee should contain a Cabinet Member
  - c. Clarity on the role of the Independent Investigator
  - d. That the Chief Executive should consult with the Chair of the General Purposes Committee before suspending the Chief Finance Officer or Monitoring Officer.
- 10.3 This report was reviewed by the Constitutional Review Working Party on the 21 June 2019 and the 21 November 2019. The principal changes proposed by the Working Party were:
- a. To Create two sub-committees of the General Purposes Committee for initial hearings and appeals respectively.
  - b. To have all suspensions (including urgent suspensions) carried out by the Investigation and Disciplinary Sub-Committee.

### **11.0 Views of the Standards Committee**

- 11.1 This report was reviewed by the Standards Committee on 27 June 2019. There were a number of typographical and other minor changes to clarify meaning, which have been incorporated into this report.
- 11.2 One particular point was raised under paragraph 3.3 above. This was whether the Council could invoke this process in respect of ill-health dismissal or redundancy? The MHCLG have already advised that it should only be used by the Council for dismissal on disciplinary grounds (whilst an officer could request it on other grounds for dismissal). This is because the Regulations are there as a 'shield' to protect the officer from arbitrary use of other powers to dismiss them, they aren't there as a 'sword' for the council to use at will in cases other than disciplinary dismissals. Therefore, the Council should only invoke this procedure for dismissal on disciplinary grounds.
- 11.3 This report was reviewed by the Standards Committee on the 9 January 2020, the Committee considered:
- a. The inclusion of a delegation (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) for the immediate suspension of the Chief Executive, or Section 151 Officer or the Monitoring Officer where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council. The General Purposes Committee

# Agenda Item 8

shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend.

Officers believe that there remains a real need for a power to suspend immediately in urgent circumstances. This might include, for example where an officer has assaulted a member of staff or the officer is under the influence of drink or drugs. The recommendation for immediate suspension needs to be addressed and is included in the main recommendations.

- b. The inclusion of a list of the 'Deputy Chief Officers' in the Officer Employment Procedure Rules

## 12.0 Withdrawal of the matter from Council on the 11 July 2019

- 12.1 Following the withdrawal of this report from Council on the 11 July 2019, the report was referred back to the Constitutional Review Working Party for greater clarity on the 'filter process' for referring allegations of alleged misconduct against the Chief Executive to the GPC.
- 12.2 Advice was sought from the Joint Secretaries of the JNC for Chief Executives on this point. Their advice was that the filter process should not involve substantive member involvement beyond the Chair of the IDC, as demonstrated in the JNC Handbook for Chief Executives. The handbook sets out a procedure where, in the case of the Chief Executive, the Monitoring Officer and the Chair of the IDC would oversee referrals to that committee.

Contact Officer:	Tim Howes, Director of Corporate Governance and Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

## Annex List

Annex 1	(a) General Purposes Committee Amended Terms of Reference (b) Disciplinary Appeals Committee Terms of Reference (c) Independent Persons Panel Terms of Reference
Annex 2	Amended Employment Rules
Annex 3	Disciplinary process flow chart

## Background Papers

Title	Details of where to access copy
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015	<a href="http://www.legislation.gov.uk/ukxi/2015/881/contents/made">http://www.legislation.gov.uk/ukxi/2015/881/contents/made</a>
The Local Authorities (Standing Orders) (England) Regulations 2001	

## Corporate Consultation

Finance	Chris Blundell, Head of Financial Services
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# Agenda Item 8

<b>Legal</b>	Estelle Culligan, Head of Legal and Democratic Services
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**Annex 1 Amendments to COUNCIL FUNCTIONS CARRIED OUT BY COMMITTEES**

**Decision Making Body: General Purposes Committee**

**Functions:**

To exercise any function of the Council, which by statute or regulation is a function not to be the responsibility of an authority's executive, and which is not delegated to another committee or reserved to the Council by statute, regulations or the Council's Constitution.

**Investigation and Disciplinary Sub-Committee**

**Functions:**

To consider allegations /issues regarding disciplinary matters relating to the Head of Paid Service, the S.151 Officer and the Monitoring Officer.

To review existing decisions to suspend and to suspend the Head of Paid Service, Monitoring Officer and Section 151 Officer.

The Investigation and Disciplinary Sub-Committee will be formed from half of the members of the General Purposes Committee. This is subject to compliance with the requirements regarding political proportionality.

- (a) Members of the sub-committee must have completed mandatory training in respect of the latter function.
- (b) For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the sub-committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

The sub-committee must include at least one Cabinet Member

**Disciplinary Appeals Sub-Committee**

**Functions:**

To hear and determine appeals brought by the Head of Paid Service, the S.151 Officer and the Monitoring Officer against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal.

The Disciplinary Appeals Sub-Committee will be formed from half of the members of the General Purposes Committee. This is subject to compliance with the requirements regarding political proportionality.

- (a) No Member who was a member of the Investigation and Disciplinary Sub-Committee making the decision which is the subject of the appeal may serve as a member of the Disciplinary Appeals Committee.

(b) Members of the sub-committee must have completed mandatory training.

(c) For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the sub-committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

The sub-committee must include at least one Cabinet Member

**Advisory Body: Independent Persons Panel**

**Functions;**

To advise the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

- (a) The Panel will comprise of three Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 plus one reserve.
- (b) To be appointed in the following priority order:
  - (i) An Independent Person who has been appointed by the Council and who is on electoral roll in Thanet
  - (ii) Any other IP appointed by the Council
  - (iii) An IP who has been appointed by another authority
- (c) Panel members must have completed mandatory training in respect of this function



**Annex 2**

**Officer Employment Procedure Rules (see also Standing Orders relating to Staff)**

**1.0 Recruitment and Appointment**

(a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) No Councillor will seek support for any person for any appointment with the Council.

(iii) Paragraphs (i) and (ii) above preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

**2.0 Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

(i) the duties of the officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

**3.0 Appointment of Head of Paid Service**

- (a) The full Council will appoint the Head of Paid Service.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

#### **4.0 Appointment of Chief Officers and Deputy Chief Officers**

- (a) A Committee or Sub-Committee of the Council will appoint chief officers and deputy chief officers. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received. A list of Chief Officers and Deputy Chief Officers is appended.

#### **5.0 Other Appointments**

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### **6.0 Disciplinary Action**

**(a) Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by the Investigation and Disciplinary Sub-Committee whilst an investigation takes place into alleged misconduct. Before deciding whether to suspend, the Committee shall invite the officer to make representations unless it is impracticable to do so. That suspension will be on full pay and last no longer than two months. The Sub-Committee shall review any continuing suspension every two months. In carrying out such review the Sub-Committee shall consider any representations made by the officer.

**(b) Immediate Suspension.**

The Chief Executive (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) may immediately suspend the Monitoring Officer or Section 151 Officer where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend.

# Agenda Item 8

## Annex 2

The Monitoring Officer (in consultation with the Leader or Chairman of the Investigation and Disciplinary Sub-Committee) may immediately suspend the Chief Executive where their remaining presence at work poses a serious risk to an investigation, to the health and safety of others, or to the resources, information or reputation of the council. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend.

~~(b) Independent person. No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.~~

(c) The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeal Sub-Committee against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal

(d) Councillors will not be involved in the disciplinary action (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) against any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

### 7.0 Dismissal

- 7.1 Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 All Chief Officers and Deputy Chief Officers (with the exception of the Head of Paid Service, Monitoring Officer and Chief Finance Officer) have a right of appeal to the General Purposes Committee against dismissal.
- 7.3 The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Sub-Committee against any decisions of the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal.
- 7.4 Where a committee, sub committee or officer is, recommending on behalf of the authority, the dismissal of an officer designated as the Head of Paid Service, as the authority's Chief Finance Officer, or as the authority's Monitoring Officer, the Full Council must approve that recommendation to dismiss before notice is given to that person.

**List of chief officers and deputy chief officers for the purposes of Officer Employment Procedure Rule 4**

**Chief Officers:**

Chief Executive

Deputy Chief Executive and Section 151 Officer

Director of Commercial and Operational Services

Director of Corporate Governance and Monitoring Officer

**Deputy Chief Officers:**

- Head of Asset Management
- Head of Legal and Democratic Services
- Head of Financial Services
- Head of Communications
- Head of Housing and Planning
- Head of Safer Neighbourhoods
- Head of Maritime and Technical Services
- Head of Technical Services

The above job titles or roles may be subject to change. So the legal definitions of 'chief officers' are also set out below:

Statutory Chief Officers:

- Head of Paid Service;
- Chief Finance Officer (section 151 Officer) and
- Monitoring Officer

Non-Statutory Chief Officers:

- A person for whom the Head of Paid Service is directly responsible;
- A person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to the Head of Paid Service; and
- Any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

Deputy Chief Officers:

- A person who, as respects all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

# Agenda Item 8

## Annex 2

A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer.

### **Prescribed and Other Standing Orders**

#### **Part I – Prescribed Standing Orders**

##### **Introduction, Application and Interpretation**

1. The following Standing Orders shall be known as ‘Prescribed Standing Orders’, and shall form part of the Council’s Standing Orders. The Council’s Standing Orders other than Prescribed Standing Orders shall be known as ‘Ordinary Standing Orders’.
2. In the event of any conflict or inconsistency between Ordinary Standing Orders and Prescribed Standing Orders the latter shall prevail.
3. Any word or phrase contained within Prescribed Standing Orders shall, if such word or phrase is given a meaning by The Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of Prescribed Standing Orders.

##### **Appointment of Chief Officers**

4. Where the authority propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing Officers, they shall:-
  - (a) draw up a statement specifying:-
    - (i) the duties of the Officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it: and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
5. (1) Where a post has been advertised as provided in standing order 4 (b) the authority shall:-
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.
- (2) Where no qualified person has applied, the authority shall make further

# Agenda Item 8

## Annex 2

arrangements for advertisement in accordance with standing order 4 (b).

6. Every appointment of a Chief Officer shall be made by the authority unless made by any duly authorised Committee, Action/Sub-Committee, or a relevant Joint Committee.
7. The steps under Prescribed Standing Orders 4 and 5 above may be taken by any Committee, Action/Sub-Committee or Chief Officer of the authority if duly authorised in that behalf.
8. Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972:-
  - (a) the steps under prescribed standing orders 4 and 5 above may be taken by any duly authorised joint committee of those authorities, sub committee of such a committee or a chief officer of any of the authorities concerned, and
  - (b) any chief officer may be appointed by such a duly authorised joint committee, sub committee of such a committee or a committee or sub committee of any of those authorities.
9. Excluded from the application of prescribed standing orders 4 to 6 shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

### **Disciplinary Action Against the Head of Paid Service and Others**

- 10.1 ~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer may not be dismissed by the Council unless in accordance with the requirements of the The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.~~

~~A relevant officer may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 is complied with.~~

~~(Note: In this standing order 'relevant officer' means head of the authority's paid service, monitoring officer or the chief finance officer, as the case may be.)~~
- 10.2 ~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Sub-Committee against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal~~

### **Recording of Votes at Meetings**

11. (1) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the

# Agenda Item 8

## Annex 2

proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.

- (2) In this paragraph 'relevant body' means the authority, a committee or sub committee of the authority or a relevant joint committee or sub committee of such a committee.

### **Signing Minutes - Extraordinary Meetings**

12. Where in relation to any meeting of the authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) (signing of minutes) of that Schedule.

### **Variation and Revocation**

13. Otherwise than to incorporate options allowed by the Regulations these prescribed standing orders shall not be revoked or amended.

**Part II – Standing Orders relating to Staff**

1. In this Part:

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means the Human Resources Manager or his or her nominee.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him/her.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989

Act;

- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

- (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the



# Agenda Item 8

## Annex 2

authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

- (3) The Head of Paid Service, Monitoring Officer and Chief Finance Officer may not be dismissed by the Council unless in accordance with the requirements of the The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015:

(a) At least 20 days before the relevant Council meeting an Independent Persons Panel has been established for the purposes of advising on matters relating to the dismissal and independent persons appointed under section 27 of the Localism Act 2011 have been invited to be appointed to the Panel and

(b) Any advice, views or recommendations of the Independent Persons Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer have been taken into account before the taking of the vote on whether or not to approve such a dismissal

- (4) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or subcommittee.

5. (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, subcommittee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b) (c) or (d) of paragraph 3 must not be made by the appointor until:

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the proper officer has notified every member of the executive of the authority of:

(i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

# Agenda Item 8

## Annex 2

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either:

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointee that neither he/she nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not wellfounded.

6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of –
- (i) the name of the person who the dismissor wishes to dismiss;
- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either:
- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismiss that

# Agenda Item 8

## Annex 2

neither he/she nor any other member of the executive has any objection to the dismissal;

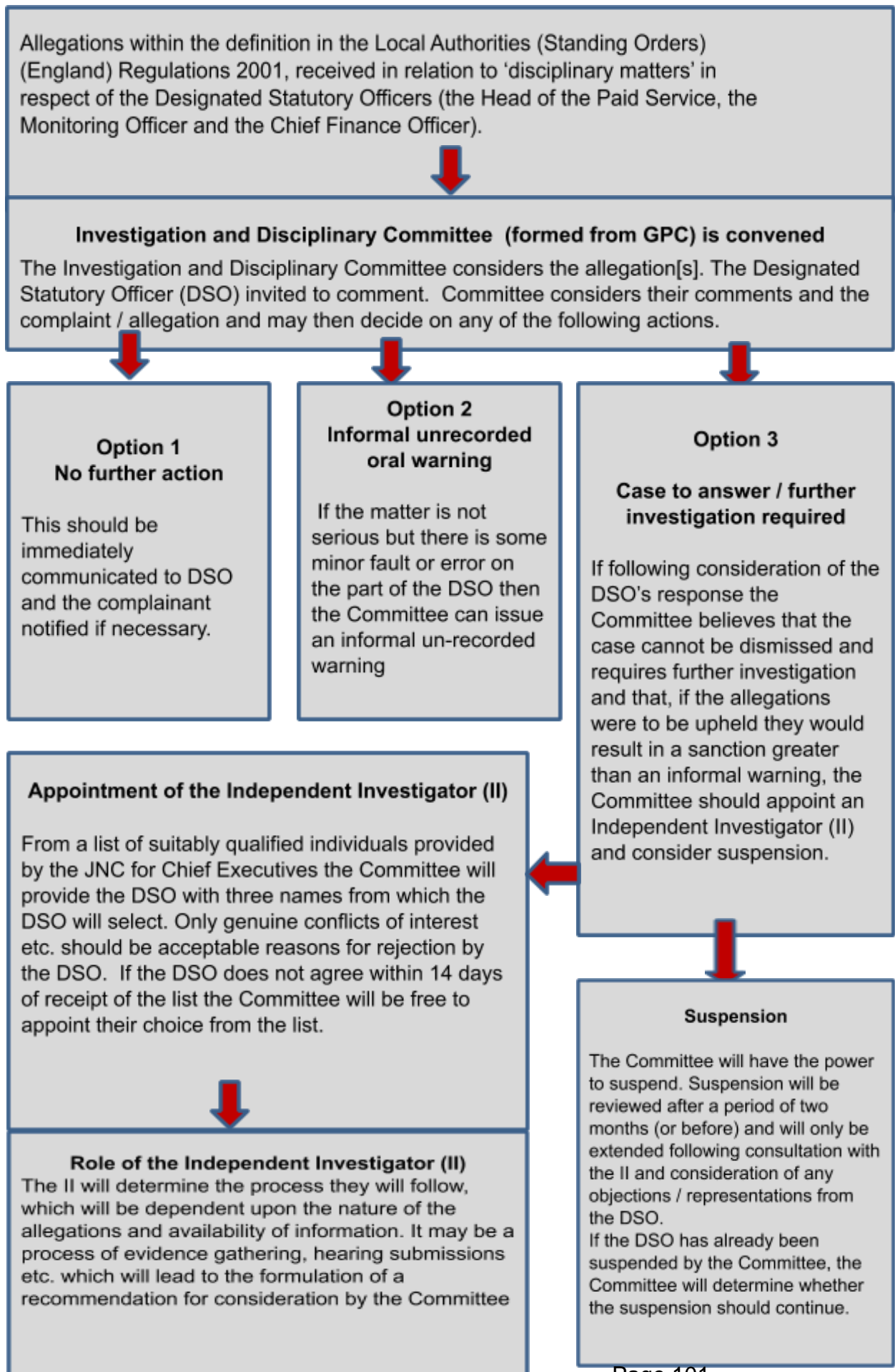
- (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
- (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

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**Procedure for Local Authority Designated Statutory Officers**



**Report by Independent Investigator and consideration and decision by the GPC**

On completion of the investigation the Independent Investigator will prepare a report with recommendations and rationale for submission to the Committee.

The Committee will afford the DSO the opportunity for a hearing to allow the post holder to challenge the recommendations of the Independent Investigator, call witnesses etc.

The Committee may decide to call witnesses for clarification. The DSO and Independent Investigator should attend this meeting and both parties afforded the opportunity to summarise their case and will have the usual opportunities to present evidence and cross examine witnesses etc. Both parties will have the right to be represented at the hearing. The hearing should be conducted in accordance with the ACAS code of practice.



**Recommendation of the GPC**

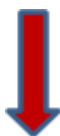
Following either consideration of the report of the II or a full hearing of the case the GPC will essentially have the following options:

- No case to answer
- Recommend informal resolution or other appropriate procedures
- Refer back to the II for further investigation
- Disciplinary action short of dismissal
- Propose dismissal



**No case to answer**

*Appropriate communication should be prepared in agreement with the DSO to ensure that as far as possible there is no damage to the post holder's reputation.*



**Action short of dismissal**

A decision to take action short of dismissal should be communicated in writing to the DSO with rationale for the decision. The DSO has the right to appeal to the Disciplinary Appeals Committee against this decision.



**Recommendation to dismiss**


If there is a recommendation to dismiss, the reports of the GPC and the II should then be sent to Independent Panel (IP) for its consideration. The DSO may make written representation to the IP.



### **Composition, role and process of the Independent Panel (IP)**


The IP will be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and will comprise only independent persons (at least two) appointed under S28 (7) of the Localism Act 2011. Appropriate training should be provided to these independent members. Both parties should be present or represented\* at the meeting. The IP should receive any oral representations from the DSO in which case it should invite any response of behalf of the GPC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

\*The GPC should nominate a person to attend on its behalf. This will usually be the Chairman of the GPC.



### **Report to Full Council**

Following consideration by the IP a report will be presented to Council. This report should comprise the recommendation of the GPC, the IP's report and any comments on the recommendations for dismissal from the IP. In the light of this information, Council should consider the recommendation to dismiss. The DSO should be allowed to attend this meeting and address the Council. The IP may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction (in which case there would be no right of appeal)



### **Notice of dismissal and Executive Notification Procedure**

The DSO will not be issued with the notice of the dismissal until:

- the Council has notified the proper officer of the name of the person who the Council wishes to dismiss and any other particulars which the Council considers are relevant to the dismissal
- the proper officer has notified every member of the cabinet of this information together with the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the cabinet to the proper officer; and either—
  - (i) the Leader has, within the period specified, notified the Council that neither they nor any other member of the cabinet has any objection to the dismissal;
  - (ii) the proper officer has notified the Council that no objection was received by the proper officer within that period from the Leader; or
  - (iii) the Council is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

