

# Constitution for Governance of Thanet District Council

~~27<sup>th</sup> March~~ XXXXX 2018

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# Part 1 - Summary and Explanation

## 1.0 The Council's Constitution

The Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose and codes of practice are provided in separate rules and protocols in other parts of this Constitution.

## 2.0 What's in the Constitution?

Article 1 of the Constitution commits the Council to exercise all its powers and duties in accordance with the law. Articles 2 – 16 explain the rights of residents and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Residents and the Council (Article 3)
- The Council meeting (Article 4)
- Chairing the Council (Article 5)
- Overview and scrutiny of decisions (Article 6)
- The Cabinet (Article 7)
- Regulatory and other committees (Article 8)
- The Standards Committee (Article 9)
- Area Committees (Article 10)
- Joint arrangements (Article 11)
- Officers (Article 12)
- Decision making (Article 13/)
- Finance, contracts and legal matters (Article 14)
- Review and revision of the Constitution (Article 15)
- Suspension, interpretation and publication of the Constitution (Article 16)

### 3.0 How the Council operates

The Council is composed of 56 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.

All councillors meet together as the Council. Meetings of the Council are normally open to the public. Here councillors decide the Council's overall policies and set the budget each year.

At the Annual Meeting of the Council in the year of an ordinary election of Councillors, the Council will appoint one of the Councillors to the office of Leader of the Council for a term ending on the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for four years). The Leader will also appoint a Deputy Leader for the same term of office to act in his absence. However, in each Council Year the Leader will appoint between one and eight other Councillors to combine with the Leader and Deputy Leader to form a Cabinet. The Leader will then allocate a number of functional responsibilities (called a portfolio) to each of them. The Cabinet is responsible for an extensive range of functions in accordance with this Constitution and the policies and budget agreed by the Council. [See Articles 2 to 5.]

### 4.0 How Decisions are Made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions that are made by members. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the Cabinet, the meeting will generally be open for the public to attend except where matters that fall into the statutory exemptions apply in which case there will be a private session. The exemptions apply broadly to personal or commercially confidential matters. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### 5.0 Overview and Scrutiny

There ~~is~~ are ~~an~~ two overview and scrutiny ~~committeepanels~~ who supports the work of the Cabinet and the Council as a whole. They allow residents to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Panel monitors the decisions of the Cabinet and of individual Cabinet members. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

## 6.0 The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

## 7.0 Residents' Rights

Members of the public have a number of rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes. Where members of the public use specific council services, they may have additional rights. These are not covered in this Constitution.

### Residents have the rights to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of executive;
- participate in the Council's question time and contribute to investigations by the overview and scrutiny committees as set out in [Overview and Scrutiny Procedure Rules];
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or officers, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council using the Council's complaints process;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Council if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Democratic Services Team will also supply information about the rights of residents to inspect agendas and reports and attend meetings.





## Part 2 - Articles of the Constitution

### Article 1 – The Constitution

#### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the Thanet District Council.

#### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
2. support the active involvement of residents in the process of local authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision for which they were directly responsible;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

#### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council may monitor and evaluate the operation of the Constitution as set out in Article 15 and may make changes to it at any time.

## Article 2 – Members of the Council

### 2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 56 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with the law applicable at the time of any election.
- (b) **Eligibility.** Only registered voters of the district or those living or working there will be eligible to hold the office of councillor.

### 2.02 Election and terms of Councillors

**Election and terms.** The regular election of councillors will be held on the first Thursday in May every four years beginning in 2003. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### 2.03 Roles and functions of all Councillors

- (a) **Key roles.** All councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (ii) represent their communities and bring their views into the Council's decision-making process;
  - (iii) effectively represent the interests of their ward and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council;
  - (vi) maintain the highest standards of conduct and ethics; and
  - (vii) be eligible to represent the Council on other bodies.
- (b) **Rights and duties**
- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.

- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### **2.04 Conduct**

Councillors must at all times observe the Members’ Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

#### **2.05 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 6 of this Constitution.

## Article 3 – Residents and the Council

### 3.01 Residents' rights

**NB. These rights are subject to the provisions of the relevant legislation and, where applicable, to the provisions of this Constitution.**

Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution.

- (a) **Voting and petitions.** Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Residents have the right to:
  - (i) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the executive when key decisions are being considered;
  - (iii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Residents have the right to participate in the Council's question time and contribute to investigations by overview and scrutiny Panels.
- (d) **Complaints.** Residents have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) about the conduct of a member if they have evidence which they believe shows that a member has breached the Council's code of conduct.

### 3.02 Residents' responsibilities

Residents must not be violent, abusive or threatening to councillors or officers and must not wilfully harm things owned by the council, councillors or officers.

### **3.03 Contacting the Council**

Residents can contact the Council through its website, by email, in person or on the telephone.

## Article 4 – The Full Council

### 4.01 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Community Safety Plan;
  - Local Transport Plan;
  - Plans and strategies which together comprise the Development Plan.
  - Council's Corporate Plan;
  - Food Law Enforcement Service Plan;
  - The plan and strategy which comprise the Housing Investment Programme;

*Other plans and strategies which the council may decide should be adopted by the Council meeting*

- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### 4.02 Functions of the full Council

Except as otherwise allowed by Article 13 and Article 15, only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the leader;
- (e) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;

- (g) adopting an allowances scheme under Article 2.05;
- (h) changing the name of the area;
- (i) confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (l) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

## Article 5 – Chairing the Council

### 5.01 Role and function of the chairman

The chairman of council and in his/her absence, the vice-chairman, will have the following roles and functions:

- Ceremonial role
- Chairing the council meeting

The Chairman will be elected by the Council annually. The chairman will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet or hold committee chairs are able to hold the cabinet members and committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate.



## Article 6 – Overview and Scrutiny Panel

### 6.01 Terms of reference

The Council will always appoint at least one overview and scrutiny panel to discharge the functions conferred by section 21 of the Local Government Act 2000 and set out in detail in 6.03 of this article.

### ~~6.02 General role~~

~~Within their terms of reference, the Overview and Scrutiny Panel will:~~

- ~~(a) review and/or scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions;~~
- ~~(b) make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions; and~~
- ~~(c) consider any matter affecting the area or its residents.~~

### ~~6.03 Specific functions~~

#### ~~Terms of Reference~~

- ~~(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet;~~
- ~~(b) to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;~~
- ~~(c) to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6;~~
- ~~(d) to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;~~
- ~~(e) within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;~~
- ~~(f) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;~~

- ~~(g) — liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;~~
- ~~(h) — to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area;~~
- ~~(i) — to review external partnership working and the performance of external service providers;~~
- ~~(j) — to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation;~~
- ~~(k) — to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;~~
- ~~(l) — to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.~~

#### **6.04 — Annual report**

~~The Overview and Scrutiny Panel will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.~~

#### **6.052 General role**

Within their terms of reference, the Executive, Policy & Community Safety Scrutiny Panel will:

- (a) Lead in reviewing proposals by the executive regarding policy development matters affecting the delivery of services in Thanet
- (b) To consider matters relating community wellbeing and safer neighbourhoods.
- (c) Within the remit of the Panel, make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions;
- (d) Consider any matter affecting the area or its residents within the remit of the Panel; and
- (e) Exercise the call-in function of the Council~~Within their terms of reference, the Overview and Scrutiny Panel will:~~
  - ~~(a) — review and/or scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions;~~
  - ~~(b) — make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions; and~~

~~(e) — consider any matter affecting the area or its residents.~~

### **6.063 Specific functions**

#### Terms of Reference

- (a) To lead on overview and scrutiny policy matters having specific regard for developing new approaches to policy and making appropriate recommendations to assist the Cabinet and the Council in the development of its policy framework. This includes reviewing all the plans and strategies within the policy framework as set out in Article 4 of the Constitution;
- (b) Considering the Council's Forward Plan;
- (c) Consider all petitions that request for new services or requiring council action on an emerging matter affecting the local community;
- (d) Consider all community safety matters and act as the community safety scrutiny panel;
- (e) To deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6;
- (f) Consider all valid Councillor Call for Action (CCfA) submissions made through the CCfA protocol in the Constitution;
- (g) Within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;
- (h) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (i) Within the remit of the Panel, to make reports or recommendations to the authority or the Cabinet (where appropriate) with respect to the discharge of any functions which are not the responsibility of the Cabinet;
- (j) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (k) To make reports on community wellbeing and policy development recommendations to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area

### **6.07 Annual Report**

The Executive, Policy & Community Safety Scrutiny Panel will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

~~to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Cabinet;~~

~~to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;~~

~~to deal with all call-in matters arising under Overview and Scrutiny Procedure Rule 15 and Budget and Policy Framework Procedure Rule 6;~~

~~to deal with all overview and scrutiny policy matters contained within the constitution, having specific regard for (i) developing new approaches to policy and making appropriate recommendations to assist the Council and the Cabinet in the development of its policy framework by in-depth analysis of policy issues, and (ii) for budget development, budget review and spending performance issues and in order to assist the Council and the Cabinet in the development of its budget framework;~~

~~within the constraints of officer time and budgets, conduct research, community and other consultation in the analysis of policy issues and possible options;~~

~~consider and implement mechanisms to encourage and enhance community participation in the development of policy options;~~

~~liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;~~

~~to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area;~~

~~to review external partnership working and the performance of external service providers;~~

~~to undertake Best Value, Value for Money and other reviews, and review action plans arising from them, including progress on their implementation;~~

~~to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;~~

~~to make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet.~~

## **6.08 General role**

Within their terms of reference, the Finance Budget & Performance Scrutiny Panel will:

(a) Review and/or scrutinise the decisions made or actions taken in connection with the discharge of any of the Council's functions;

(b) Within the remit of the Panel, make reports and/or recommendations to the Cabinet, Council or any appropriate Committee in connection with the discharge of any functions;

(c) Review matters relating to the Council budget;

- (d) Review the corporate performance of Thanet District Council and joint arrangements in delivering services to residents; and
- (e) Within the remit of the Panel, consider any matter affecting the area or its residents.

## **6.09 Specific functions**

### **Terms of Reference**

- (a) To review the Council budget process, budget proposals and budget performance (monitoring) and make recommendations to Cabinet;
- (b) Considering the Council's Forward Plan with regards to post decision scrutiny;
- (c) To undertake a review of the delivery of the corporate plan and any action plans arising, including progress on their implementation;
- (d) To review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;
- (e) Consider petitions that require reviewing or rescinding of a Cabinet or Council decision;
- (f) To review external partnership working and the performance of external service providers;
- (g) Within the remit of the Panel, to make reports or recommendations to the authority or the Cabinet (where appropriate) with respect to the discharge of any functions which are not the responsibility of the Cabinet;
- (h) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
- (i) Within the remit of the Panel, to make reports or recommendation to the authority or the Cabinet on matters which affect the authority's area or the inhabitants of the area.

## **6.10 Annual Report**

The Finance Budget & Performance Scrutiny Panel will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

### ~~6.04 Annual report~~

~~The Overview and Scrutiny Panels will report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.~~

## **6.110 Proceedings of Overview and Scrutiny Panel**

| The Overview and Scrutiny Panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

# Article 7 – The Cabinet

## THE ROLE OF THE CABINET

### 7.01 Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### 7.02 Form and composition

The Cabinet will consist of the Leader of the Council together with the Deputy Leader and at least one but not more than 8 councillors appointed by the leader.

### 7.03 Leader

The Leader will be a councillor elected to the position of leader by the Council. . The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is no longer a councillor; or
- (c) he/she is removed from office by resolution of the Council.

### 7.04 Replacement of Leader upon Resignation etc.

Should the Leader cease to hold office for any reason other than removal by a resolution of the Council, the Council will elect a new Leader at the next Ordinary Meeting of Council. Should the Leader cease to hold office by resolution of the Council, the Council will at the same meeting elect a new Leader. In either case the term of office of the new Leader will be the unexpired residue of the term of office of the former Leader.

### 7.05 Deputy Leader

Upon election as Leader, the Leader will appoint a Councillor to the office of Deputy Leader. The Deputy Leader will have full power to act in the absence of the Leader and will hold office until the date of the Annual Meeting of Council in the next year of an ordinary election of Councillors (i.e. for a term of four years), unless:

- (a) he/she resigns from the office; or
- (b) he/she ceases for any reason to be a Councillor; or
- (c) he/she is removed from office by the Leader, in which case the Leader will give notice in writing to that effect to the proper officer who shall immediately give a copy of the notice to the Deputy Leader and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

**7.06 Replacement of Deputy Leader upon Resignation etc.**

Should the Deputy Leader cease to hold office for any reason other than suspension from being a Councillor, the Leader will appoint a Councillor as the new Deputy Leader and will notify the Council of the identity of the new Deputy Leader at the next Ordinary Meeting of Council. The term of office of the new Deputy Leader will be the unexpired residue of the term of office of the former Deputy Leader.

**7.07 Other Cabinet members**

In each Council Year in which he or she holds office, the Leader will:

- (a) within the prescribed limits, determine the number of Councillors who together with the Leader and Deputy Leader shall comprise the Cabinet for the ensuing Council Year;
- (b) be responsible for appointing them;
- (c) notify Council at the Annual Meeting of his or her decisions in relation to (a) and (b) above.

**7.08 Term of office of other Cabinet members**

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are no longer councillors; or
- (c) they are removed from office by the Leader in which case the Leader will give written notice of any removal to the proper officer who shall immediately give a copy of the notice to the Cabinet member in question and to the Chief Executive (unless it is clear that this has already been done). The removal will take immediate effect upon receipt of the notice by the proper officer.

**7.09 Cabinet Portfolios**

In each Council Year the Leader will allocate a range of functional responsibilities (called 'a portfolio') to the members of the Cabinet and will at the Annual Meeting also notify Council of such allocation and will cause that to be recorded in the Constitution of the Council.

**7.10 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

**7.11 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular executive functions.



## Article 8 – Regulatory and other Committees

### 8.01 Regulatory and other Committees

The Council will appoint the Committees set out in Part 3 of this Constitution – ‘Responsibility for Council Functions’ – to discharge the functions described.

## Article 9 – The Standards Committee

### 9.01 Standards Committee

The Council meeting will establish a Standards Committee.

### 9.02 Composition

- (a) **Membership.** The Standards Committee will be composed of at least:
- Seven councillors [other than the Leader];
  - Four independent members;
  - Three members of a parish council wholly or mainly in the Council's area (Parish Members).
- (b) **Independent members.** Independent members will be entitled to vote at meetings;
- (c) **Parish members.** At least one Parish or Town Council member must be present when matters relating to those parish councils or their members are being considered;
- (d) **Chairing the Committee.** The Chairman and Vice chairman of the Committee shall be drawn from among the independent members.

### 9.03 Role and Function

The Standards Committee will have the following roles and functions:

- (a) To promote and maintain high ethical standards of conduct for elected and co-opted Members.
- (b) To help elected and co-opted Members to observe the Members' Code of Conduct.
- (c) To give the Council advice on adoption or revision of the Members' Code of Conduct and on informal codes/protocols covering matters such as planning and Member/Officer relations.
- (d) To monitor the effectiveness of the Members' Code of Conduct.
- (e) To deal with complaints that elected and co-opted Members have breached the Members' Code of Conduct and in connection with this function:
- (i) To develop and adopt:
- Assessment Criteria for dealing with complaints;
  - Policies for dealing with vexatious, persistent and anonymous complaints and requests by complainants for confidentiality;

- Arrangements for dealing with complaints and publicising the arrangements;
  - Procedures for dealing with local investigations; and
  - Such other provisions and procedures as may be required.
- (ii) To establish and maintain Assessment and Hearings Sub-Committees.
- (f) To grant dispensations under S.33 Localism Act 2011.
- (g) To conduct Hearings and make determinations in respect of complaints that elected and co-opted Members have breached the Members' Code of Conduct in accordance with relevant statutory and Constitutional requirements and in connection with this function:
- (i) To develop and adopt procedures for dealing with such Hearings; and
  - (ii) To establish and maintain a **Hearings Sub-Committee** with its own terms of reference.
- (h) To undertake the functions set out above in respect of [insert names of parish councils if any].
- (i) To approve proposed amendments to the Constitution of the Council except those approved by the Monitoring Officer under the provisions of Article 12 of this document.

## Article 10 – Area Committees and Forums

**10.01** The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

**10.02 Conflicts of interest – membership of area committees and overview and scrutiny committees**

- (a) **Conflict of interest.** If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of the area committee of which the councillor concerned is a member, then the councillor may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.
- (b) **General policy reviews.** Where the overview and scrutiny committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

**10.03 Area Committees – access to information**

Area committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for area committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

**10.04 Cabinet members on area committees**

A member of the Cabinet may serve on an area committee if otherwise eligible to do so as a councillor.

## Article 11 – Joint Arrangements

### 11.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### 11.02 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. [Such arrangements may involve the appointment of a joint committee with these other local authorities].
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint Committee from outside the Cabinet in the following circumstances:
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet executive may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area;
  - the joint committee is between a county Council and a single district Council and relates to functions of the executive of the county council. In such cases, the executive of the county council may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **11.03 Access to information**

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint Committee are members of the Executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **11.04 Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

### **11.05 Contracting out**

The Council for functions which are not executive functions and the Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 12 – Officers

### 12.01 Management structure

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

The full Council may delegate these functions to another body or officer.

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers).  Executive Support Unit.
Director of Corporate Resources	Finance, Communications, Policy and Business Planning
Director of Community Services	Safer Neighbourhoods, Built Environment, Economic Development and Asset Management, Housing Services
Director of Operational Services	Open Spaces, Street Cleansing, Waste and Recycling, Civil Enforcement, Street Scene Enforcement, Technical Services, Crematorium & Cemeteries, Maritime and Harbours
Director of Corporate Governance	Legal, Democratic Services, Elections, Information Management

- (c) Head of Paid Service, Monitoring Officer and Chief Financial Officer. The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director of Corporate Governance (Monitoring Officer)	Monitoring Officer
Director of Corporate Resources	Chief Finance Officer (S151 Officer)

Such posts will have the functions described in Article 12.02–12.04 below.

The roles of these posts are underpinned by the fundamental principles of political neutrality and service to the whole Council.

- (d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.
- (e) **Accountability.** Within the fundamental principles of political neutrality and service to the whole Council, the Head of Paid Service shall report to the Leader of the Council concerning the efficient and effective implementation of the Council's policies. The Chief Finance Officer shall similarly report to the

Head of Paid Service. They shall both ensure that other Cabinet Members are appropriately briefed regarding matters relevant to their individual portfolio areas.

### 12.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 12.03 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making in accordance with the powers and duties contained in the Local Government and Housing Act 1989.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Conducting investigations.** The Monitoring Officer will conduct or commission investigations into complaints about the conduct of members and make reports or recommendations in respect of them to the Standards Committee.
- (e) **Proper officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible in accordance with this Constitution.
- (f) **Advising whether Cabinet decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.



**12.04 Functions of the Chief Finance Officer (“Section 151 Officer”)**

- (a) Ensuring lawfulness and financial prudence of decision making in accordance with the powers and duties contained in the Local Government Act 1972 and the Local Government Finance Act 1988. After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an Executive function and the Council’s external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**12.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.06 Conduct**

Officers will comply with the Officers’ Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

**12.07 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

## Article 13 – Decision Making

### 13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) the presumption in favour of openness and transparency;
- (b) the need for due consultation;
- (c) the need to take account of relevant professional advice from appropriate staff;
- (d) the need for clarity of aims and desired outcomes;
- (e) the need to identify the range of options considered;
- (f) the need to give reasons and explanation for a decision;
- (g) the need to ensure that all necessary requirements of legality and confidence are observed.

### 13.03 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.
- (b) Key decisions. A “key decision” which must be included in the Forward Plan, is an executive decision, which is likely:
  - (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the council’s budget for the service or function to which the decision relates; or
  - (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.
  - (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

### 13.04 Decision making by the full Council

Subject to Article 13.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.05 Decision making by the Cabinet**

Subject to Article 13.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.06 Decision making by overview and scrutiny committees**

Overview and scrutiny committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

### **13.07 Decision making by other committees and sub-committees established by the Council**

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

### **13.08 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

# Article 14 – Finance, Contracts and Legal Matters

## 14.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

## 14.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

## 14.03 Legal proceedings

- (1) The Head of Legal Services or Monitoring Officer can take any legal action necessary to carry out the Council's decisions or protect its interests e.g. starting defending, withdrawing or settling any claims or legal proceedings.
- (2) All Officers in the senior management structure (see Part A of Section E of the Scheme of Delegations) may start, defend or withdraw any claims or legal proceedings or authorise Officers to appear on behalf of the Council in court and take default action under relevant legislation if:
  - the action taken is about a function that they or an Officer who reports to them has budgetary or management responsibility for; and
  - the Constitution or the law does not require any action to be taken by someone else; and
  - they have had regard to any advice from the Head of Legal Services.

## 14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract with a value exceeding £10,000 entered into on behalf of the local authority in the course of the discharge of an executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

## 14.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Legal Services Officer, Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by a Member of the Council and one of the said

officers or some other person authorised by him/her. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by a person who has attested the seal.

# Article 15 – Review and Revision of the Constitution

## 15.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

In undertaking this task the monitoring officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

## 15.02 Changes to the Constitution

- (a) **Approval.** Changes to the constitution will only be approved by the full Council after consideration of the proposal by Standards Committee. Such proposals to be formulated by the Constitutional Review Working Group.
- (b) The Monitoring Officer in consultation with the Chief Executive and the group leaders shall have the power to make minor amendments to the Constitution to correct errors or to comply with any legal requirement or to reflect changes in the Council's structure.
- (c) **Change from a mayoral form of executive to another form of executive or to alternative arrangements, or from alternative arrangements to a mayoral form of executive.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum. The change will not take effect until the end of the mayor's term of office.
- (d) **Change from a leader and cabinet form of executive to alternative arrangements, or vice versa.** The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

# Article 16 – Suspension, Interpretation and Publication of the Constitution

## 16.01 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless more than one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 16.01:
- Council Procedure Rules
  - Access to Information Procedure Rules
  - Budget and Policy Framework Procedure Rules
  - Cabinet Procedure Rules
  - Overview and Scrutiny Procedure Rules
  - Financial Procedure Rules
  - Contract Standing Orders
  - Officer Employment Procedure Rules

## 16.02 Interpretation

The ruling of the chairman of council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 16.03 Publication

- (a) The Committee Services Manager will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.
- (b) The Committee Services Manager will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and

can be purchased by members of the local press and the public on payment of a reasonable fee.

- (c) The Committee Services Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.



## Part 3 - Delegation Scheme

This Part of the Constitution deals with responsibility for Council and Executive functions and decision making. It should be read in conjunction with the rest of this Constitution, in particular Articles 4, 6, 7, 8, 9, 12, 13 and 14.

This Part of the Constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000, in particular Section 13 (Functions which are to be the responsibility of an executive), and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). In the event of any conflict between this Part and a provision in any piece of legislation, the latter shall prevail.

In any case where a function or decision making power is in this Part described in words (without reference to the Act or Statutory Instrument conferring that function or power) which are also used in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended), those words shall be deemed to include a reference to the provision of the Acts or Statutory Instruments listed or referred to in those Regulations.

A number of the functions listed below as delegated to the various decision-making bodies listed, are further delegated to officers. The Cabinet will be responsible for all executive functions as required by the Local Government Act 2000 in addition to those specific functions which are listed below.

### Principles

1. The Government has for the most part prescribed which functions the Council is to be responsible for.
2. Where functions are not prescribed as the responsibility of the Council they will be determined by the Leader.
3. The Council delegates some of its responsibilities to a committee, a joint committee or an officer.
4. The Council can take back responsibilities it has delegated to a committee, a joint committee or an officer or decide to delegate them on certain conditions.
5. Delegation by committee: Committees can authorise a sub-committee or an officer to carry out their delegated responsibilities on their behalf.

## **SECTION A. COUNCIL FUNCTIONS**

### **Functions that may only be exercised by the council**

#### **Procedural Functions**

1. To adopt and uphold the Constitution of the Council;
2. To agree the roles and responsibilities of all non-executive committees and keep them under review and to delegate non-executive functions to officers;
3. To elect the Leader of the Council;
4. To agree the composition and membership of all non-executive committees unless the function has been delegated by the Council;
5. To adopt Standing Orders and Financial Regulations for the Council and to keep them under review;
6. To adopt a Code of Conduct for Members and any Member/Officer Protocols;
7. To appoint any individual to any outside bodies not within the remit of the Cabinet and suspend and/or revoke any such appointment;
8. To consider any report from the non-executive committees;
9. To consider any matters referred to the Council for decision.

#### **Functions relating to the Budget, Policy, the Council and the District**

10. To agree the Council's revenue and capital budgets;
11. To set the Council Tax levels;
12. To approve Prudential Indicators for Capital;
13. To take decisions about proposals which do not comply with the Policy Framework or Budget unless they are urgent. The procedure for dealing with urgent decisions that are outside the Policy Framework and Budget is in Part 4 of this constitution;
14. To agree the Council's Policy Framework and Budget;
15. To keep under review ward boundaries and to decide the Council's response to any proposals by the Local Government Boundary Commissioner affecting the authority's electoral boundaries;
16. Any other matter by law required to be considered or determined by the Council;
17. To promote or oppose local, personal or other Bills of Parliament;
18. To determine the Council's Scheme for Members' Allowances after having regard to the Independent Remuneration Panel's report;

19. To approve any application to the Secretary of State in respect of any Housing Land Transfer;
20. To appoint the Head of Paid Service (Chief Executive);
21. To receive any report by the Chief Finance Officer;
22. To receive any report by the Monitoring Officer;
23. To receive any report by the Chief Executive;
24. To make, amend, revoke or re-enact any byelaws to apply within the district boundaries;
25. To receive any report of the Council's Committees as appropriate.

**Functions relating to Elections and the Name and Status of Areas and Individuals**

26. To change the name of the District under Section 74 of the Local Government Act 1972;
27. To confer the title of Honorary Alderman or to admit to be an Honorary Freeman of the District;
28. To appoint any electoral registration officer under Section 8(2) of the Representation of the People Act 1983 (c.2)(c);
29. To assign officers in relation to requisitions of the registration officer under Section 52(4) of the Representation of the People Act 1983;
30. To appoint a returning officer for Local Government elections under Section 35 of the Representation of the People Act 1983;
31. To provide assistance at European Parliamentary elections under Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c.10)(d);
32. To divide constituencies into polling districts under Section 18 of the Representation of the People Act 1983;
33. To divide wards and parliamentary constituencies into polling districts at local government elections under Section 31 of the Representation of the People Act 1983;
34. To exercise all powers in respect of holding of elections under Section 39(4) of the Representation of the People Act 1983;
35. To pay expenses properly incurred by electoral registration officers under Section 54 of the Representation of the People Act 1983;
36. To fill vacancies in the event of insufficient nominations under Section 21 of the Representation of the People Act 1985;

37. To declare vacancy in office in certain cases under Section 86 of the Local Government Act 1972;
38. To give public notice of a casual vacancy;
39. To determine fees and conditions for supply of copies of, or extracts from, elections documents under Rules 48(3) of the Local Elections (Principal Areas) Rules 1986 (S I 1986 (S I 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S I 1986/2215);
40. To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000 under Section 10 of the Representation of the People Act 2000 (c.2).

## **SECTION B. LOCAL CHOICE FUNCTIONS**

### **Responsibility for Local Choice Functions**

These are the functions which Council could either exercise itself or pass to the Cabinet to carry them out.

**Decision Making Body:        The Cabinet**

#### **Functions:**

1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
2. Any function relating to contaminated land.
3. The discharge of any function relating to the control of pollution or the management of air quality.
4. The service of an abatement notice in respect of a statutory nuisance.
5. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
6. The inspection of the authority's area to detect any statutory nuisance.
7. The investigation of any complaint as to the existence of a statutory nuisance.
8. In connection with executive functions, the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.
9. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
10. The determination of an appeal against any decision made by or on behalf of the authority relating to business rates.

These functions are delegated in accordance with Section D.

## SECTION C – COUNCIL FUNCTIONS CARRIED OUT BY COMMITTEES

### Responsibility for Council Functions that are carried out by Committees

**Decision Making Body: Planning Committee**

#### 1.0 Functions

##### A. Planning and Conservation

All the Council's functions in relation to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended.

##### B. Highways Use and Regulation

All the Council's functions in relation to the regulation of the use of highways (including bridleways and footpaths) as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000, as amended.

##### C. Trees

All the Council's functions in relation to preserve trees and hedgerows under section 197 to 214D of the Town and Country planning act 1990 and the Trees Regulations 1999 and to protect important hedgerows under the Hedgerows Regulations 1997.

#### 2.0 Delegated Powers

##### 2.1 In relation to policies and strategies the Committee will:

- 2.1.1 Advise the Cabinet on the implementation of the Development plan, Local Development Framework and other planning policies and strategies;
- 2.1.2 Approve guidelines, procedures, protocols and similar documents which relate to town and country planning and listed building legislation.

##### 2.2 Within the policies laid down by the Council, the Committee will:

- 2.2.1 Determine individual applications for planning permission and any other application made under planning legislation where:
  - a) It is an application which the Director of Community Services or Planning Applications Manager In consultation with the Chairman or Vice Chairman of the Planning Committee, considers to be of significant public interest;
  - b) It is an application which Council Members have specifically requested to be referred to the Planning Committee in accordance with the requirements of any Member's Call in Procedure from time to time approved by the Council (set out in the Protocol for the Guidance of Planning Committee Members and Officers);
  - c) The application has been submitted by or on behalf of a Member or an Officer of the Council;
  - d) It is an application by or on behalf of Thanet District Council;

- e) It is an application where the officer is recommending the approval not in accordance with the development plan.
- 2.2.2 Refer an application for planning permission to Council if it has or is likely to have a substantial and district-wide impact; or would prejudice the implementation of the development plan.
- 2.2.3 Advise the Council in respect of any proposed development by the Cabinet or a Cabinet Member holding the portfolio of that service, for which the Planning Committee is not prepared to pass the necessary resolution to carry out or authorise such proposed development.
- 2.2.4 Consider annually the scale of fees and charges, and to submit recommendations to the Cabinet or Council as appropriate.
- 2.2.5 Authorise legal proceedings arising out of the exercise of the Committee's delegated powers

### **3.0 Matters delegated to officers**

- 3.1 The Director of Community Services is authorised to carry out all other Planning and Conservation, and Highways Use and regulation responsibilities, and responsibilities in relation to trees, in accordance with the officer scheme of delegation of functions.

## **Decision Making Body: Licensing Board**

### **1. Functions:**

#### **1.1 The Council's licensing functions are:**

- (a) All the responsibilities set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to licensing, registration and gambling.
- (b) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making a closure order with respect to take away food shop (see Section 4 of the Local Government (Miscellaneous Provisions) Act 1982).
- (c) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making an order identifying a place as a designated public place in connection with police powers about alcohol consumption (see Section 13(2) of the Criminal Justice and Police Act 2001).
- (d) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making or revoking an order designating a locality as an alcohol disorder zone (see Section 16 of the Violent Crime Reduction Act 2006).
- (e) To carry out all the taxi and private hire and other vehicle licensing responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities)(England) Regulations 2000.

- 1.2 Council sets policies in respect of Licensing and Gambling etc. on the recommendation of Cabinet.

## **2.0 Matters specifically delegated to the Licensing Board**

### **2.1 The general responsibilities of the Licensing Board**

The Licensing Board will:

- 2.1.1 Determine and review licence fees and terms and conditions of licences for taxis, private hire vehicles and other vehicles and operators;
- 2.1.2 Determine applications for taxi and private hire and other vehicle, driver and operator licences, when it has received any objections to the licence, permit or registration;
- 2.1.3 Determine applications for taxi and private hire and other vehicle, driver and operator licences when the applicant has a conviction and the Director of Community Services has concerns about the nature of the offence; or the applicant or vehicle may be unsuitable for some other reason;
- 2.1.4 Determine whether to withdraw or suspend licences for taxis and private hire and other vehicles and their drivers and operators Make orders identifying a place as a designated public place in connection with police powers about alcohol consumption;
- 2.1.5 Make or revoke orders designating a locality as an alcohol disorder zone;
- 2.1.6 Set the terms and conditions of licences, permits or registrations payable under the Licensing Act 2003;
- 2.1.7 Set the terms and conditions of licences, permits or registrations in connection with sex shops and sex cinemas;
- 2.1.8 Set fees for licences and permits issued under the Gambling Act 2005;
- 2.1.9 Set fees payable in connection with Street Trading;
- 2.1.10 To determine applications and appropriate conditions of sex entertainment venue licences under schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, with fees to be set by officers.
- 2.1.11 Deal with any matter that is referred to it by an officer.

### **3.0 The Licensing Sub-Committee**

- 3.1 The Licensing Board appoints a sub-committee (the Licensing Sub-committee)

The Licensing Sub-Committee will:

- 3.1.1 Decide applications made under the Licensing Act 2003 and Gambling Act 2005 where relevant representations are received within the timescale set out in the Act. When doing this the sub-committee follows the regulations and procedures under the Licensing Act 2003 or the Gambling Act 2005;



- 3.1.2 Decide whether to grant any other type of registration licence or permit when there are objections;
- 3.1.3 Determine all matters set out in section 10 of the Licensing Act 2003;
- 3.1.4 Determine all matters set out in section 154(4)(a) of the Gambling Act 2005;
- 3.1.5 Determine applications for club gaming or club machine permits and cancellation of such permits when there are objections;
- 3.1.6 Determine applications for prize gaming permits when there are police objections or officers would want to refuse them;
- 3.1.7 Set the terms and conditions of licences, permits or registrations and any fees or charges in connection with any of it responsibilities if they are referred to the subcommittee by an officer.
- 3.1.8 Determine anything else which needs a hearing or which cannot legally be delegated to officers.

#### **4.0 Matters delegated to officers**

- 4.1 The Director of Community Services is authorised to carry out all other Licensing, Registration, Gambling and regulation responsibilities, in accordance with the officer scheme of delegation of functions.

**Decision Making Body: Standards Committee**

#### **Functions:**

The role and functions of the Standards Committees are set out in Article 9.

**Decision Making Body: Governance and Audit Committee**

Substitute Members are permitted from the list approved by Council which matched the proportionality of the Committee itself. Membership is decided upon by Full Council.

#### **Functions:**

#### **Audit Activity**

- To consider the annual report and opinion of the East Kent Audit Partnership, and a summary of audit activity (actual and proposed) and the level of assurance it can give over the Council's governance arrangements;
- To approve (but not direct) internal audit's strategy, plan and monitor performance;
- To consider summaries of specific internal audit reports;
- To consider reports dealing with the management and performance of the providers of internal audit services;
- To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale;

- To consider the external auditor's annual letter, relevant reports and the report to those charged with governance;
- To consider specific reports as agreed with the external auditor;
- To consider the annual programme of work and associated fees for the External Auditors and provide challenge as appropriate;
- To commission work from internal and external audit as agreed by the Committee.

### **Regulatory Framework**

- To review any governance/financial issue referred to it by the Chief Executive or a Director, or any Council body;
- To monitor the effective development and operation of risk management and governance in the Council;
- To oversee the application of the Council's governance arrangements for partnership activities where the council is the accountable body and/or employer;
- To approve the Council policies on Anti-Bribery, Whistleblowing, Anti-fraud and Corruption and the External Funding Protocol;
- To recommend to Cabinet the council's policy in Equalities (PSED);
- To approve the Authority's Annual Governance Statement;
- To consider the Council's compliance with its approved Treasury Management Strategy;
- To consider the Council's arrangements for governance and agreeing necessary actions to ensure compliance with best practice;
- To consider the Council's arrangements for ensuring adequate Data Quality;
- To consider the Council's compliance with its own and other published standards and controls.
- Risk management

### **Accounts**

- To approve the annual Statement of Accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statement or from the audit that need to be brought to the attention of the Council;
- To consider the external auditor's report on issues from the audit of the accounts and recommend approval to those charged with governance.

### **Matters delegated to officers**

The Chief Executive, Director of Corporate Resources and Director of Corporate Governance are authorised to carry out all the Audit, Regulatory and Accounts responsibilities and the other functions of this Committee (for which they are responsible) in accordance with the officer scheme of delegation of functions.

**Decision Making Body:      Joint Transportation Board**

**Function:**

**Terms of Reference:**

The JTB will consider:-

- (i) capital and revenue funded works programmes;
- (ii) traffic regulation orders;

(iii) street management proposals;

and will provide advice on these matters to the relevant Executive as appropriate.

- Be a forum for consultation between KCC and the Council on policies plans and strategies related to highways road traffic and public transport;
- Review the progress and out-turn of works and business performance indicators;
- Recommend and advise on the prioritisation of bids for future programmes of work;
- Receive reports on highways and transportation needs within the district.

**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.

## **SECTION D. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

### **Responsibility for functions and procedures**

1. This section of the Constitution sets out the responsibilities of the Leader and Cabinet.
2. The Leader is responsible for any functions which are not specifically required to be carried out by the Council under regulations.

## **RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

### **1. General**

- 1.1 All the functions of the Council are executive functions except for:
  - Those listed in Schedule 1 of the Local Authority's (Functions and Responsibilities) (England) Regulations 2000 (as amended); and
  - Those set out in this Constitution as being the responsibility of the Council or a body established by the Council.
- 1.2 Executive functions will be exercised by the Leader except when the matter is dealt with under joint arrangements or delegated to the Cabinet, a committee of Cabinet, an individual Cabinet member or an Officer.
- 1.3 The Leader will discharge both these functions in accordance with the Cabinet procedures and the access to information rules.
- 1.4 The Leader will make sure all necessary steps are taken to prepare the Authority's budget, and those plans and strategies which constitute the Authority's policy framework as set out in Part 4 of this Constitution prior to their final approval and adoption by the Council. They will undertake this work in accordance with the budget and policy framework procedure rules.

## **THE LEADER'S SCHEME OF DELEGATION FOR EXECUTIVE FUNCTIONS**

### **1. Background**

- 1.1 The Council has adopted the Leader and Cabinet style of executive arrangements. Under this arrangement all executive functions are vested in the Leader who can then delegate functions as seen fit. This document sets out the delegation of those functions but excludes any decisions that are contrary to the policy framework or budget which must be taken by council.
- 1.2 The Leader is responsible for:
  - appointing members of the Cabinet;
  - delegating executive responsibilities to the Cabinet;
  - delegating executive responsibilities to committees carrying out executive functions;
  - delegating executive responsibilities to individual Cabinet members;
  - allocating executive responsibilities to officers;
  - allocating executive responsibilities when no-one has responsibility for them.

- 1.3 The Leader can at any time take back responsibilities delegated to committees of the Cabinet, an individual Cabinet member or officer, or decide to delegate them on certain conditions. (i.e. The Leader can choose to exercise any powers in the Scheme of Delegation).
- 1.4 The Leader can also decide to delegate further responsibilities to committees of the Cabinet, individual Cabinet members or to an officer.
- 1.5 Executive responsibilities are carried out on behalf of the council and in the council's name.

**2. Delegations to Cabinet**

- 2.1 The Leader has decided that some executive decisions must be agreed by the Cabinet (set out in section 2.2). These decisions will be taken collectively by all Cabinet members, unless the Cabinet takes a specific decision to delegate that decision to a Cabinet member, committee or officer.
- 2.2 The decisions that must be agreed by the Cabinet are:

**Key Decisions**

A key decision is an executive decision (taken by Cabinet, portfolio holders or by officers on Cabinet's behalf) that is likely:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the district.

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

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

### **3. Areas of Responsibility of Individual Cabinet Members**

- 3.1 The individual members of Cabinet will have responsibility for the functions that are set out in below.

### **4. Delegations to Cabinet Members**

#### **A. General Delegations to all Portfolio Holders**

In addition to acting collectively in the Cabinet, each Cabinet Member will have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which he or she is accountable and the promoting and improving of the Council's profile and public perception.

In accordance with the Secretary of State's guidance, Cabinet Members should amongst other things:

- (i) ensure that they have sufficient time to focus on broad strategic issues (para 4.21 of the Guidance); and
- (ii) seek advice from relevant officers before taking a decision within his or her own delegated authority; where appropriate this should include taking legal advice, financial advice and professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is a doubt about legal powers (para 4.44 of the Guidance).  
Any matter within a Cabinet Member's delegated powers may be referred by him or her to Cabinet for decision.

To regularly review the effectiveness of policies and the performance of services and make recommendations for continuous improvement to the Cabinet.

To oversee the capital and revenue budgets in areas of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.

To be consulted by Directors upon in year changes to fees and charges (including the introduction of new fees and charges)

To liaise and work with other portfolio holders on cross cutting areas of responsibility and make recommendations to Cabinet as appropriate. [Note: Any matter relating to more than one portfolio area must be referred by the portfolio holders to Cabinet for decision.]

To oversee the review of fees and charges and recommend changes in line with the Council's agreed budget strategy.

To make or agree recommendations to Cabinet in relation to new policy areas.

To consider and endorse service plans to ensure compliance with the Corporate Plan.

To be accountable to the Cabinet for the implementation of agreed priorities and final recommendations from the Corporate Plan, Service Plans and reviews and to consider and act on reports received from officers monitoring progress.

To authorise the making of applications for planning permission for proposed development relating to the Member's portfolio area.

To make recommendations to Cabinet on bids for additional funding; expenditure; variations to expenditure and the letting of contracts for works; goods and services, in accordance with the Council's Contract Standing Orders. To support individual projects within the Cabinet Member's portfolio area, provided such expenditure is within the overall project budget and above the prevailing virement threshold.

In any case where a matter is urgent and a decision cannot reasonably await the next meeting of the Cabinet and the relevant portfolio holder does not have a general or specific delegated power, the relevant portfolio holder may nevertheless make a decision on behalf of the Cabinet subject (except in the case of the Leader) to prior consultation with the Leader and subject to the decision being reported to Cabinet as soon as practicable. [Note: in the case of a key decision the Access to Information Procedure Rules must still be complied with.]

## **B. Specific Delegations to Portfolio Holders**

### Leader of the Council

1. To approve the appointment of Council Members to sit on external Partnership
2. Boards related to regeneration and to monitor their performance in accordance with approved guidance;
3. To nominate a Cabinet Member to act on his or her behalf on a specific project;
4. To recommend to Council and Cabinet (as the case may be) the appointment or nomination of Members to fill vacancies on the Approved Table of Outside Bodies;
5. To exercise any specific delegated power of any Cabinet Member;

### Portfolio Holder for Operational Services

1. To approve following public consultation, all parking orders, taxi rank locations, street management schemes and resident parking schemes;

### Portfolio - Financial Services and Estates

1. To approve the write off of debts over £10,000;
2. To authorise terms for the acquisition and sale of property with an estimated value of over £250,000.

## **C. Portfolio - Leader of the Council**

### **As Cabinet Leader**

#### **Scope of Portfolio:**

To lead and coordinate the Cabinet on:

1. Corporate Plan
2. Media, PR and Communications;
3. Strategic Planning, Planning Policy and the Local Plan
4. Major Strategic Projects;
5. Port and Harbours.

**D. Deputy Leader of the Council**

To act on behalf of the Leader when he or she is absent or unable to act and may nominate any Cabinet member to deputise for the Leader in the absence of the Leader and Deputy Leader. To work under the Leader's direction on Cabinet co-ordination and ensure resolution of any inter portfolio issues.

**E. Portfolio - Operational Services****Scope of Portfolio**

To lead policy development and advise the Cabinet on:

1. Parking (including civil parking enforcement)
2. Waste management, recycling and street cleaning;
3. Streetscene enforcement (including fly-tipping)
4. Parks including playgrounds and green spaces;
5. Cemeteries and crematoria;
6. Public conveniences.

**F. Portfolio - Financial Services and Estates****Scope of Portfolio:**

**To lead policy development and advise the Cabinet on:**

1. Policy and Business Planning;
2. Finance including revenue and capital for general fund and HRA budgets preparation and monitoring;
3. Treasury Management;
4. Housing and Council Tax Benefits and Revenues (including Debt Recovery);
5. Corporate property, land and facilities management;
6. Heritage and museums;
7. Risk and Performance.

**G. Portfolio - Housing and Safer Neighbourhoods****Scope of Portfolio**

To lead policy development and advise the Cabinet on:

1. Community Safety (including representing the Council on the Community Safety Partnership);
2. The Margate Task Force Board;
3. Health and Wellbeing
4. Strategic Licensing;
5. Private Sector Housing (including the Margate Housing Intervention Programme);
6. Housing Strategy;
7. Homelessness
8. Client-side East Kent Housing;
9. Environmental Health
10. Recreation and leisure;
11. The leisure management contract.



## H. Portfolio – Corporate Governance and Coastal Development

### Scope of Portfolio:

To lead policy development and advise the Cabinet on:

1. Information and Communications Technology;
2. Customer Services;
3. Democracy and Governance;;
4. Legal Services;
5. Information, records and data management and strategy;
6. Service improvement and transformation;
7. Regeneration and economic development;
8. Tourism;
9. Management of the foreshore and beaches.

## 5. DELEGATIONS TO EAST KENT SERVICES

Certain functions are delegated to East Kent Services see Section F.

## 6. GENERAL RULES AS TO CABINET DELEGATIONS

- a. Cabinet can authorise a Cabinet Member, Committee or an Officer to carry out its delegated responsibilities on its behalf;
- b. A Cabinet Member can authorise a Committee or an Officer to carry out his or her delegated responsibilities on his or her behalf;
- c. Committee can authorise a Sub-Committee or an Officer to carry out their delegated responsibilities on their behalf.

### 6.1 DELEGATION TO OFFICERS

- (1) All executive responsibilities except the ones in Sections 2 and 4 above are delegated to the Officers in the corporate management team and the heads of service (see SECTION E) noting any capital and revenue delegation limits.

An Officer can only carry out a responsibility if:

- they (or an Officer who reports to them) have budgetary or management responsibility for it; and
- the Constitution or the law does not require it to be carried out by someone else.

Officers' use of delegated powers:

- (2) Officers do not have to use their delegated powers: they can ask the person or body that delegated the power to them to make a decision, or refer the matter to the relevant Committee.

Officers who have had something delegated to them can authorise Officers they line manage to do it on their behalf (unless it was delegated on condition that they do it themselves).

**6.2 INTERPRETING THE RULES ON DELEGATION**

- (1) When the Leader has delegated a responsibility in this Scheme of Delegation, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).
- (2) Without prejudice to the generality of (1) above, this includes the authority to sign all necessary documents, determine applications, authorise payments, authorise prosecutions, implement national agreements, issue and serve statutory and other notices, authorise entry to land in pursuance of statutory powers, and take default actions under relevant legislation if:
  - (a) the Constitution or the law does not require the action to be taken by someone else; and
  - (b) the decision maker has had regard to any advice from the Chief Finance Officer and the Monitoring Officer.

**6.3 RESPONSIBILITIES NOT COVERED BY THIS SCHEME**

If an executive responsibility does not have to be carried out by the Cabinet, an individual Cabinet member or a Committee and no one has budgetary and management responsibility for it, the Leader will arrange for it to be carried out by the Cabinet, a Committee or an Officer.

Signature ..... Date .....

Councillor .....

Leader of Thanet District Council

**SECTION E. MANAGEMENT STRUCTURE AND SCHEME OF OFFICER DELEGATIONS**

As at the Council Meeting of 25/2/2016

PART A MANAGEMENT STRUCTURE

PART B SCHEME OF DELEGATIONS TO OFFICERS

## **Part A – Management Structure**

### The Corporate Management Team (CMT)

Chief Executive  
Director of Community Services  
Director of Corporate Resources \*  
Director of Corporate Governance \*\*  
Director of Operational Services

Director of Shared Services

\* Chief Financial Officer/Section 151 Officer

\*\* Monitoring Officer

### The Heads of Service:

#### Community Services

- Head of Safer Neighbourhoods
- Head of Built Environment
- Head of Housing Services
- Head of Economic Development

#### Corporate Resources

- Head of Finance
- Head of Asset Management
- Head of Communications

#### Corporate Governance

- Head of Legal Services
- Committee Services Manager
- Electoral Services Manager

#### Operational Services

- Head of Operational Services
- Technical Services Manager

#### EK Services

- Assistant Director – Customer Delivery
- Business Support Manager
- Head of ICT
- Finance Manager
- Head of Customer Delivery
- Head of Human Resources

## **Part B - Scheme of Delegations to Officers**

### **1.0 Methodology**

- 1.1 The Council also delegates the exercise of a number of emergency public health powers to an external officer appointed by Clinical Director of Public Health England.
  - 1.2 Where the Scheme of a Delegation relates to specific Acts of Parliament, Regulations and Orders and other exercise of powers made thereunder, it is intended that such delegations shall extend to the powers and duties and functions under the Acts, Regulations and Orders as they exist at present and any subsequent re-enactment or amendment of the relevant statutory provisions or departmental exercise of powers.
  - 1.3 The acts of the Chief Executive, Directors and other named Service Managers under delegated powers shall be deemed to be the acts of the Council.
- 2.0 Any decision taken under delegated powers shall be in accordance with any relevant policy approved by the Council and in compliance with the Financial Procedure Rules and Contract Standing Orders. When the exercise of a delegated power includes the incurring of expenditure such action shall be conditional upon the necessary financial provision being included in an approved budget estimate.

### **3.0 Delegation to Officers**

- 3.1 Officers do not have to use their delegated powers: they can ask the person or body that delegated the power to them to make a decision, or refer the matter to the relevant committee.

Officers who have had something delegated to them can authorise officers they line manage to do it on their behalf (unless it was delegated on condition that they do it themselves).

### **4.0 Appointment of Proper Officers:**

- 4.1 All members of the senior management structure may act as, or appoint Officers to act as, proper Officers for the purposes of any Act of Parliament or statutory instrument if:
  - (a) The Member of the corporate management team or senior management team or one of their staff has budgetary or management responsibility for that function; and
  - (b) The Officer appointed is qualified to carry out the functions of a proper Officer; and
  - (c) The Constitution or the law does not require it to be carried out by someone else.

**SECTION F. Arrangements for the Discharge of Functions and Delegations****Functions to be delegated to the EK Housing**

<b>Co-ordination with corporate policy in relation to housing element of:</b>	<b><u>Council</u></b>	<b><u>EKH</u></b>	<b><u>Both</u></b>
Community Safety	X		
Neighbourhood Renewal	X		
Regeneration	X		
Housing and Health	X		
Supporting People	X		
Sustainable Development	X		
Social exclusion	X		
Equalities and Diversity	X		
<b>New tenancies</b>			
Administration of Housing Register/Choice Based Lettings	X		
Housing allocations policy for Council housing	X		
Selection of tenants for vacant props	X		
Transfer list management	X		
Granting of new tenancies		X	
Successions		X	
Mutual exchange management		X	
<b>Repairs and Maintenance</b>			
Stock condition survey local authority housing		X	
Response repairs		X	
Contract and Planned Maintenance and Refurbishment Programmes		X	
Modernisation and Improvements		X	
Energy and efficiency		X	
Develops a business plan for investment in housing stock		X	
Implementation of annual investment programme: monitors delivery, manages programme		X	
<b>Void and Empty Property Management</b>			
Terminations		X	
Inspection		X	
Repairs		X	
<b>Sustainable Communities</b>			
Neighbourhood and Estate Management		X	
Enforcement of conditions of tenancy		X	
Evictions and court action to support enforcement		X	
Alterations to conditions of tenancy		X	
Illegal occupation		X	
Development of ASBO policy	X		
Responsibility for legal process to obtain Anti-Social Behaviour Orders		X	
Administering application prior to legal action for ASBO		X	
Regeneration and estate development			X
<b>Estate Management</b>			
Care taking on housing schemes		X	

Environmental Services		X	
Grass cutting/Ground maintenance		X	
<b>Supported Housing</b>			
Manage supporting people policy			X
Sheltered Housing Schemes		X	
Life Link Care line	X		
Supported Housing Schemes		X	
Refugees	X	X	
Homelessness Accommodation	X		
Temporary Accommodation	X		
Gypsies	X		
Medical adaptations		X	
<b>Right to Buy</b>			
Valuations	X		
Administration and calculation of discount		X	
Approvals	X		
<b>Leasehold Management</b>			
<b>Finance</b>			
Rent setting/service charges	X		
Rent accounting		X	
Recovery of Rent Arrears		X	
Recovery of other charges		X	
Financial Returns, Subsidy Returns	X	X	
Insurance of property and land	X	X	
Insurance claims		X	
Management of HRA capital resources			X
Preparation of HRA budgets	X		
Annual determination of SSV fee			X
<b>Procurement</b>			
Policy	X		
Letting of contracts in relation to delegated activities		X	
<b>Tenant involvement in Housing Strategy</b>			
Tenant participation		X	
Tenant consultation			X
Information to tenants		X	
Reports to tenants		X	
<b>Other Assets (including lettings and management)</b>			
Garages		X	
Shops and Buildings		X	
Estate offices		X	
Tenant Resource Centres or Tenant Offices		X	
Community Centres	X		
<b>Clearance and disposal and dwellings</b>			
Sale of dwellings	X		
Clearance and disposal of dwellings	X		
Compensation	X		
Decanting tenants			X
<b>Housing Benefit and Council Tax Benefit administration</b>	X		
<b>Programme of Service Reviews</b>	X		

<b>Preparation of Business Plan for Housing Revenue Account</b>	X		
<b>Preparation of Delivery Plan</b>		X	
<b>Preparation of Service Plan</b>		X	
<b>Bidding for Capital Resources</b>	X		
<b>Monitoring Arrangements with the SSV</b>			X
Developing and agreeing the annual delivery plan		X	
Monitoring the delivery plan achievement			X
Liaison with SSV on Housing Service Standards and Inspectorate requirements			X
<b>Tenant Health and Safety</b>		X	

## Functions to be Discharged by EKSC on Behalf of the Authorities

### Framework and Definitions

1. The functions delegated in this Schedule are associated with the following services which are to be delivered by Canterbury City Council, Dover District Council and Thanet District Council through the East Kent Services Committee:
2. Detailed as below:
  - (a) ICT
  - (b) face to face and contact centre customer services
  - (c) revenues and benefits
  - (d) human resources
3. It is contemplated that the East Kent Services Committee will in turn delegate the discharge of these functions to the Director of Collaborative Services and/or the Director of Shared Services or other of their officers.
4. The "Arrangements" means the operating arrangements, Terms of Reference, Committee Procedure Rules and any other minutes or documents for the time being in force by which the East Kent Joint Arrangements Committee is constituted and its powers defined.
5. "Authority" means Canterbury City Council, Dover District Council, or Thanet District Council as the context requires, being the authority on whose behalf the particular powers or functions are being exercised and "Authorities" shall be construed accordingly.
6. "The Committee" means the East Kent Services Committee.
7. "The Department" means as the context requires the East Kent Shared Services department under the Directorship of the Director of Shared Services and or the East Kent Human Resources department under the Directorship of the Director of Collaborate Services.
8. "Scheme of Delegation" means the arrangements for the discharge of functions and delegations set out in this Schedule.



**Exercise of Functions**

9. The Council's and the Executives of the Authorities delegate the discharge of the functions set out in this Scheme of Delegations to the East Kent Services Committee pursuant to all powers contained in or having effect under the Local Government Acts of 1972 and 2000.
10. The exercise of the powers and functions set out in this Schedule shall without prejudice to any specific delegation or authorisation set out, and subject to any express Conditions/Exclusions/Limitations/Notes specified, be taken to include power to do anything incidental or conducive to the discharge of such functions including (by way of example and not by way of limitation) power to do any of the following:
  - (a) To appoint or designate any officer as an "authorised officer", "inspector", "person duly authorised" or similar under any of the legislation or functions specified for the purposes of enabling any such person to carry such legislation or functions into effect.
  - (b) To authorise any officer for the purposes of any of the above mentioned legislation or functions.
  - (c) To exercise any power or function conferred by or in connection with the specified legislation or functions to:
    - (i) Require any person to provide any information.
    - (ii) Enter or inspect any land, premises, vehicle or vessel.
    - (iii) Take samples of, seize, test, dispose of, destroy, or otherwise deal with and thing or substance in accordance with the applicable legislation.
    - (iv) Make application for any warrant or order to a court of summary jurisdiction and to execute any such warrant or order taking with him or her any other person as may be authorised.
    - (v) To make or swear any information.
    - (vi) Institute or defend any legal proceedings, and to take all proper steps in the furtherance or compromise of such proceedings (in each case) in consultation with the Solicitor to the Council which may be undertaken in relation to specific cases or in relation to categories of work,.
    - (vii) Execute work.
    - (viii) Sell or dispose of any goods, articles, samples materials or other property (other than land and buildings).
    - (ix) Recover any sums of money due to the Authorities.
    - (x) Authorise any other person to do any of the things mentioned in (i) to (ix) above to the extent permitted by law.

11. The East Kent Services Committee are hereby authorised to discharge on behalf of the Authorities the function of preparing and approving, amending or repealing, any policy, statement, practice note, code of guidance, procedure or similar in connection with the functions hereby delegated and:-
- (a) Until such time as they have done so any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement of the relevant Authority in force on 11 February 2015.
  - (b) Any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the Authority' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement as approved by the former East Kent Joint Arrangements Committee or the East Kent Services Committee (or the relevant Authority) after 11 February 2015.
12. Any reference to any Act, Rule, Order or Regulation shall be taken as including a reference to that Act, Rule, Order or Regulation as re enacted replaced or modified from time to time.
13. References to any statutory provision shall include a reference to any subordinate or secondary legislation made under or taking effect under it from time to time.

### **Administrative**

14. The Committee may only exercise the delegated powers in this schedule in accordance with:-
- (a) Statutory or other legal requirements, including the principles of public law, the Human Rights Act 1998 (as amended), statutory guidance and statutory codes of practice.
  - (b) The Constitution of the Authority where relevant including standing orders, contract standing orders and financial regulations.
  - (c) The revenue and capital budgets of the Authority, subject to any variation thereof which is permitted by the Authority's Financial Regulations.
  - (d) Consideration of any relevant policy adopted by the Committee.
15. The Committee may not exercise delegated powers where –
- (a) The matter is reserved to the Authority by the arrangements.
  - (b) The matter is a function which cannot by law be discharged by the Committee.
16. The Committee may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Authority.
17. Where an officer has delegated powers the Committee or sub-committee (as appropriate) the Committee can still exercise that power if it considers that it is appropriate to do so.

18. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the Committee must consult someone else they reasonably consider to be an appropriate substitute consultee if reasonably practicable to do so.
19. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions
20. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
21. Where The Committee has delegated authority to discharge functions by virtue of any other decision by the parties or the absence of the delegation from this Scheme of Delegation shall not prevent the exercise of the delegation.
22. Where the Committee delegates the exercise of any function to an officer of any of the Authorities that officer may nominate another officer or officers to exercise that duty, function or power, provided that the nominated officer(s) report to or is responsible to officer to whom the delegation has been made.
23. Where an officer has delegated authority to discharge functions;
  - (a) By virtue of any other decision of the parties or;
  - (b) Through a specific decision of the Committee, or a sub-committee, either before or after the adoption of this Scheme of Delegation,

The absence of the delegation from this Scheme of Delegation shall not prevent the exercise of the delegation.

### **Functions Related to the Administration and Management of the Shared Service**

#### Business cases and delivery of services

24. To develop shared service business cases work programmes and projects in relation to the functions which any of the Authorities are minded to delegate to the Committee.
25. With the assistance if necessary of the appropriate Chief Executive of any of the Authorities to obtain from his or her Authority any information required in preparing a shared service business case.
26. Once a business case is approved to implement the same and deliver the service as defined therein.
27. To make arrangements for the management of the Department.

#### Financial

28. Acceptance of the lowest tender or bid for the carrying out of works for the committee, the purchase, leasing or hiring of goods, materials and equipment by the committee, or the supply of services to the committee, provided that budget provision is available.

29. Authorise Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the Authority relating to the execution of contracts under seal).
30. Authority to negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to Contract Standing Orders of the Authority and ensuring sufficient budgetary provision exists.
31. The assignment or novation of a contract.
32. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialist work or material provided that this does not result in the budget provision for the works as a whole being exceeded.
33. Virement between heads of expenditure of up to the limit specified in the Authority's Financial Regulations provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
34. Provision of reasonable hospitality to representatives of other authorities, visiting a department or premises under the Committees control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500.
35. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available.

#### Shared Services Employees

36. The Authority's empower the Committee to the intent that the Director has the necessary delegated powers to;-
  - (a) to determine the establishment and make changes to the establishment of the Department
  - (b) to exercise all powers functions and responsibilities in relation to the employment, management and dismissal of staff engaged [C] in the shared services under the terms, conditions, policies and procedures of the Authority.

#### General

37. To publicise the services they provide.
38. To deal with issues relating to the Commission for Local Administration relevant to the Committee.

**Delegation of the functions associated with the provision of ICT services, face to face contact centre customer services and benefits and benefits administration.**

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
1. Council Tax	<p>In connection with the administration of the council tax:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, issue penalties, collect income and take all recovery and other administrative steps necessary to collect the council tax in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the Authorities;</p> <p>(b) to administer the Authorities' Council Tax Reductions Schemes in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved the Authorities;</p> <p>(c) to represent the Billing Authority in any proceedings tribunal or appeals panel dealing with matters of housing benefit or council tax, and in any proceedings relating to the recovery and enforcement of council tax and penalties before the Magistrates and County Court, and to authorise officers of any Authorities who are represented on the East Kent Services Committee to similarly represent the Billing Authority;</p> <p>(d) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the Authorities'</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>prosecution policy and statement on fraud;</p> <p>(e) to administer discretionary housing payments in accordance with legislation and the Authorities' policy;</p> <p>(f) to complete statutory returns in connection with council tax;</p> <p>(g) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p> <p>(h) to determine liable persons, exemptions, discounts, transitional relief schemes, calculate instalments, appoint bailiffs, debt collection agents and process servers, request a statement of case for the opinion of the High Court, attach earnings and income support, impose a charge upon property, commence bankruptcy proceedings, attach allowances, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison, to request and execute warrants of arrest and exercise any other administrative step for the collection of council tax;</p> <p>(i) to represent the Authorities in the determination of proposals, alterations and appeals for council tax where appropriate;</p> <p>(j) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>unpaid council tax;</p> <p>(k) to be responsible for the prevention, detection and prosecution of council tax fraud.</p>	<p>Statutory returns must be authorised by the Section 151 Officer of the Authorities</p>
<p>2. Administration of the Housing Benefit Scheme</p>	<p>In connection with the administration of the Housing Benefit Scheme:</p> <p>(a) to be responsible for promoting take up of Housing and Council Tax Support p schemes;</p> <p>(b) to grant Housing Benefit (rent allowances and rent rebates) in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved for the Council and Committees/Executive;</p> <p>(c) to determine and recover overpayments of Housing Benefit including making decisions on the method of recovery;</p> <p>(d) to make determinations and payments in accordance with the Authorities' Discretionary Housing Payments policy;</p> <p>(e) to undertake interviews under caution, to</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the Authorities' prosecution policy in respect of Housing Benefits</p> <p>(f) to complete statutory subsidy calculations and returns , and all other statistical returns;</p> <p>(g) to undertake all other administrative processes in connection with the Housing Benefit scheme.</p>	<p>Statutory subsidy calculations and returns must be authorised by the Section 151 Officer of the Authorities</p>
<p>3. National Non-Domestic Rate</p>	<p>In connection with the administration of the national non domestic rate:</p> <p>(a) to determine occupation, to send invoices, grant reliefs, collect income and take all recovery and other administrative steps necessary to collect the national non domestic rate in accordance with any statute or statutory regulations and make determinations and exercise discretions as appropriate, except for matters specifically reserved to the Authorities;</p> <p>(b) to represent the Billing Authority in any proceedings before the Valuation Tribunal, and in any proceedings relating to the recovery and enforcement of national non domestic rate before the Magistrates and County Court, and to authorise officers</p>	<p>This includes and recovering money from Business Improvement Districts.</p>



Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>within the Head of Business and Community Transformation's Division to similarly represent the Billing Authority;</p> <p>(c) to complete statutory returns in respect of national non domestic rate;</p> <p>(d) to serve or withdraw completion notices under Schedule 4a of the Local Government Finance Act 1988 as amended;</p> <p>(e) to determine liable persons, exemptions, transitional relief schemes, calculate instalments, appoint bailiffs, request a statement of case for the opinion of the High Court, impose a charge upon property, levy distress, impose charges for levying distress, seek insolvency of the debtor or commitment to prison or liquidation of companies, to request and execute warrants of arrest and exercise any other administrative step for the collection of national non domestic rate;</p> <p>(f) to represent the Authority in the determination of proposals, alterations and appeals for national non domestic rate where appropriate;</p> <p>(g) to represent the Billing Authority in requests for administration orders under the County Courts Acts in respect of unpaid national non domestic rate;</p> <p>(h) to calculate and pay interest on overpayments of national non domestic</p>	<p>Statutory returns must be approved by the Section 151 Officer of the Authorities</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>rate in accordance with the NDR (Payment of Interest) Regulations 1990;</p> <p>(i) to determine applications under Section 44A of the Local Government Finance Act 1988;</p> <p>(j) to be responsible for the prevention, detection and prosecution of national non domestic rate fraud.</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
4. ICT	<p>To provide ICT technical support services to the Authorities including:-</p> <p>network infrastructure both LAN and WAN solutions, hardware infrastructure, internet access and web infrastructure solutions.</p> <p>To provide technical and business advice on ICT solutions and use of technology.</p> <p>To Provide ICT business support services to the Authorities including:-</p> <p>service application system support services including third party supplier liaison, management of corporate data bases, including GIS, quality assurance of data and integration with other business systems.</p> <p>To provide associated procurement administration including all quotations, ordering, invoicing and contract management.</p>	<p>Note: The nature and extent of the activities to be undertaken in connection with the discharge of these functions will be as detailed from time to time in a Service Level Agreement</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
5. Customer Services	<p>To provide 'front of house' contact with the public wishing to make enquiries of the Authorities or to access services in relation to any of its functions whether that contact is made in person, by telephone, by mail or email or the websites of any of the Authorities, including but not limited to</p> <p>(i) Issuing application forms for access to services.</p> <p>(ii) receiving payments due to the Authorities and issuing receipts</p> <p>(iii) providing facilities for the public inspection of documents and the taking of copies thereof</p> <p>(iv) responding to 'low level' customer complaints</p> <p>(v) selling or distributing or issuing any item or thing arising out of the conduct of any undertaking or function of the Authorities</p> <p>Such other activities in connection with the offering of services to the public as may be detailed from time to time in the Service Level Agreements</p>	<p>Note:</p> <p>The activities identified in this paragraph 5 are intended to be either incidental or conducive to the discharge of the functions set out in paragraphs 1 to 4 above or intended to be either incidental or conducive to the discharge of all of the other functions of the Authorities.</p> <p>Limitation:</p> <p>Except as is expressly provided in paragraphs 1 to 4, paragraph 5 does not operate as to confer any power to exercise any substantive function of the Authorities</p>
6. Human Resources	<p>The function of providing a human resource and payroll service in respect of the staff employed by and elected members of the Authorities in accordance with a service level agreement agreed from time to time by the East Kent Services Board on behalf of the Authorities to include</p>	<p>The following matters are reserved to the Authorities at the present time:-</p> <p>1. The Regulatory and Investigative Powers Act 2000</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p><b>HR SERVICES</b></p> <p><b>Strategic HR Advice</b></p> <p>Provide advice on policy development, Workforce Strategies and other key issues.</p> <p>Attend management team meetings and committee meetings in each of the partner authorities as agreed.</p> <p><b>Professional HR Advice and Information</b></p> <p>Case management and day to day ad hoc queries.</p> <p><b>Learning and Development</b></p> <p>Provide Corporate and Bespoke Training Service.</p> <p><b>Recruitment</b></p> <p>Provide a complete recruitment administration support service from advertising to appointment. Advise Managers and respond to queries. Manage the Advertising Agency contract.</p>	<p>2. The Employment Practice Code (produced by the Information Commissioner)</p> <p>3. The Telecommunications (Lawful Business Practice) Interception of Communications) Regulations 2000</p> <p>4. Save for the provision of advice as directed by the authority, the procedural aspects and decisions to be made leading to the appointment and/or removal of the Head of Paid Service, Monitoring Officer and the Local Government Act 1972 s151 Officer.</p> <p>5. Decisions to be made under s112 of the Local Government Act 1972 (but not the procedural aspects of this power)</p>

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p><b>Pre-employment checks</b></p> <p>Requesting of employment references, pre-employment health screening, Criminal Record Bureau checks and other checks as relevant to the type of position.</p> <p><b>Appointment of new employees</b></p> <p>Production of offer letters and employment contracts and set up of personnel records – both manual file and computerised (HR/Payroll system).</p> <p><b>Contractual amendments changes</b></p> <p>Production of contract variations and amendments to personnel record as required – both manual file and computerised (HR/Payroll system)</p> <p><b>Maintenance of employee records</b></p> <p>Update employee records in accordance with authorised instructions.</p> <p><b>Input to Development and Implementation of corporate/ directorate policies</b></p> <p>Contribute to corporate/directorate policies to ensure that requirements and input from HR Shared Services is taken into account.</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p>Provide feedback regarding the implication and issues regarding implementation.</p> <p><b>Sickness and Absence management</b></p> <p>Provide access to management reports and support for managers on sickness absence.</p> <p>Input sickness absence where self-service is not available.</p> <p>Input all other absence (not sickness) in accordance with authorised instruction for areas where self-service is not available.</p> <p><b>Support to Restructuring/ change management</b></p> <p>Provide administrative support and HR advice to restructuring and change management to ensure that all HR issues are properly addressed.</p> <p><b>Personnel Administration</b></p> <p>Issue notices and keep records of general correspondence on terms and conditions and pension notifications to groups of the workforce.</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p><b>Termination/Leavers</b></p> <p>Administration of necessary processes associated with termination of employment as per the agreed process.</p> <p><b>Advice and Information</b></p> <p>Respond to day to day ad hoc queries for advice regarding terms and conditions.</p> <p><b>Consultation Forums</b></p> <p>Attend the various staff consultation forums in each authority as agreed to provide advice and guidance.</p> <p><b>Compensation and Benefits</b></p> <p>Pensions advice and administration including costs for early retirement, exercise of discretions, request for early release of benefits, Je administration, salary sacrifice and other staff benefit schemes.</p> <p><b>Health and Safety</b></p> <p>To provide professional day to day advice as necessary to the authorities and when required act as liaison with the HSE.</p>	



Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<p><b>Payroll</b></p> <p>Manage the delivery of the payroll services.</p> <p><b>Service to Members</b></p> <p>Provide a Payroll service and other services as agreed with East Kent Services Board.</p>	

# Part 4 - Rules of Procedure

# Council Procedure Rules

## 1.0 Meetings of the Council

### 1.6 Types of Council meeting

There are three types of Full Council meeting:

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

There are two types of Committee meetings:

- (a) Ordinary meetings
- (b) Extraordinary meetings

### 1.2 Annual meeting of the Council

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

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

### 1.3 Extraordinary meetings

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

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

## 2.0 Agenda

### 2.1 Agenda for Annual Meeting

The annual meeting will consider the following:-

- (i) elect a person to preside if the Chairman of Council is not present;

- (ii) elect the Chairman of Council;
- (iii) elect the Vice-Chairman of Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any declarations of interest from members;
- (vi) receive any announcements from the Chairman and/or Chief Executive;
- (vii) in the year of an ordinary election of Councillors, elect the Leader of the Council for a term of office ending on the date of the Annual Meeting of Council in the year of the next ordinary election of Councillors. (A casual vacancy in the office of Leader of the Council shall be filled for the remainder of the term of office at the next Ordinary Meeting of Council after the vacancy has arisen);
- (viii) in the year of an ordinary election of Councillors receive from the Leader notification of the councillor appointed as Deputy Leader to act in his or her absence;
- (ix) receive from the Leader notification of the number and names of Councillors who together with the Leader and Deputy Leader will comprise the Cabinet for the ensuing Council year together with the details of the portfolio responsibilities allocated to each of them;
- (x) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions (as set out in Part 3 of this Constitution);
- (xi) agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution);
- (xii) approve a programme of ordinary meetings of the Council for the year;
- (xiii) consider any business set out in the notice convening the meeting.

## **2.2 Agenda for Ordinary Meetings**

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

- (i) elect a person to preside if the Chairman and Vice Chairman are not present;
- (ii) deal with any business required by statute to be done before any other business;
- (iii) approve the minutes of the last meeting;
- (iv) receive any announcements from the Chairman, Leader, members of the Cabinet or the Chief Executive;
- (v) receive any declarations of interest from members;
- (vi) receive petitions from the public;
- (vii) receive questions from, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting; [Pursuant to Rule?]

- (viii) receive reports from the Cabinet Leader, Members of the Cabinet and the Council's Committees etc.

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

### **2.3 Agenda for Extraordinary Meetings**

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

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

No other business will be transacted.

### **2.4 Leaders Report**

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

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

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

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

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

### **2.5 Related Items**

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

## **2.6 Application to Committees**

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

## **2.7 Budget-setting meetings of the Council**

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

## **3.0 Motions and Amendments**

### Motions on Notice

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

### Amendments

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

### Putting the Motion at the Meeting

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

Scope

## 3.8 (a)

- i. Motions must be about matters for which the Council has a responsibility or which affect the district.
- ii. Motions must not relate to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a member of the Council.
- iii. Motions must be expressed in such a form that it shall conform with the requirements of the Council Procedure Rules and be competent for the Council if it so desires to pass it as a lawful and valid resolution. If it is not so expressed the Chairman shall rule it out of order.
- iv. Where a motion on notice would, if adopted, constitute the exercise of an executive function, that motion must be referred to the Cabinet (or relevant Cabinet portfolio holder as appropriate) for decision;
- v. The Chairman shall rule out of order any motion on notice that relates to the adoption of, or amendment to, a policy falling within the Council's adopted Policy Framework if that policy or amendment (as the case may be) has not first been proposed by the Cabinet and considered by the [Overview and Executive, Policy and Community Safety](#) Scrutiny Panel;
- vi. The Chairman shall rule out of order any motion on notice that proposes the adoption of, or amendment to, any policy outside the adopted Policy Framework which by law or this Constitution is the sole responsibility of the Cabinet;
- vii. Any motion on notice that proposes the adoption of a policy or the taking of a decision where Council has not received a report from the officers setting out the technical, legal and financial implications of adopting the policy or taking the decision in question shall only be debated. Following the conclusion of the debate, the only action that may be taken is to refer the motion to Cabinet for consideration.
- viii. The Council should not debate any motion which would give rise to a significant change to income of the Council, to its expenditure or contract terms, unless it has received a report from the Chief Finance Officer or the Monitoring Officer as appropriate setting out the legal or financial effect of the motion.
- ix. If any matter arises at a meeting to which the Local Government Act 1972 applies by virtue of Section 100(A)(2) as to the appointment, promotion, dismissal, salary, superannuation, or conditions of service or as to the conduct of any person employed by the Council, such matters shall not be the subject of discussion until the Council or Committee as case may be, has decided

whether or not the power to exclude the public under Section 100(A)(2) of the Local Government Act 1972 shall be exercised.

- x. A motion or amendment to rescind, or which has the effect of rescinding, a decision made at a meeting of Council within the past six months, may not be moved except in accordance with Rule 16.15 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
  - xi. A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved except in accordance with Rule 16.16 (below) unless the Monitoring Officer confirms that it is appropriate for the Council to reconsider the matter to comply with law, as a result of a change of law or material change of circumstances.
- (b) No Member shall subscribe to more than two notices of motion on an agenda at the same time.
  - (c) Motions submitted to Committees must be in the name of a member of the Committee.

#### Rejecting Motions on Notice

- 3.9 The Chairman of Council may rule out of order Motions on Notice that in his opinion:
- (a) are defamatory in nature;
  - (b) are frivolous in nature; or
  - (c) contain offensive language.

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

## **4.0 Committees and Sub-Committees**

### **4.1 Functions**

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

### **4.2 Recommending Delegated Powers**

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



#### **4.3 Duration of Appointment**

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

#### **4.4 Political Balance**

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

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

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

#### **4.5 Appointment of Sub-Committees and Working Parties**

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

#### **4.6 Parent Committees**

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

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

##### **5.1 Allocation**

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

## 5.2 Powers and duties

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

## 5.3 Substitution

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

## 5.4 Working Parties

These rules shall also apply to Working Parties.

## 6.0 Election of Chairman and Vice-Chairman of Committees

### 6.1 Appointment of Chairmen and Vice-Chairmen

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

### 6.2 Sub-Committees, Advisory Groups and Working Parties

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

### 6.3 Appointment of Chairmen and Vice-Chairmen of Scrutiny Panels

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

It has been the convention at this Council to appoint an opposition Councillor to the role of Chairman of the Overview and Scrutiny Panel.

#### 6.4 Members not eligible to stand for election

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

#### 6.5 Vacancies

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

#### 7.0 Time and Place of Meetings

##### 7.1 Timings of Committee Meetings

Committee	Meeting time
Council	7.00 pm
Cabinet	7.00 pm
Governance and Audit Committee	7.00 pm
Joint Transportation Board	7.00 pm
<del>Overview and</del> <a href="#">Executive, Policy &amp; Community Safety</a> Scrutiny Panel	7.00 pm
<a href="#">Finance, Budget &amp; Performance</a> Scrutiny Panel	<a href="#">7.00 pm</a>
Planning Committee	7.00 pm
Standards Committee	7.00 pm
Licensing Board	10.00 am
General Purposes Committee	Ad hoc
Licensing Sub Committee	Ad hoc
<del>Overview and Scrutiny Working Parties</del>	<del>Ad hoc</del>

The time and place of meetings will be determined by the ~~Democratic Services and Scrutiny~~ [Committee Services](#) Manager and notified in the summons. The following guidelines will apply:

- (i) The days of the week shall be utilised as follows:-
  - Tuesdays to - Meetings of Committees, Sub-Committees,
  - Thursdays - Advisory Groups and Working Parties and adjourned, special or additional meetings thereof.
- (ii) The Monday following Council Meetings, or the Tuesday if the Monday is a Bank Holiday, shall be kept clear of meetings to facilitate adjournment of Council to that day.
- (iii) The weeks in which scheduled Council Meetings fall will normally be kept clear of other meetings.

- (iv) The Calendar of Meetings shall generally include a two-week recess at Christmas and no meetings in August.

## **8.0 Notice of and Summons to Meetings**

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

## **9.0 Chair of Meeting**

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

## **10.0 Quorum**

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

## **11.0 Duration of Meeting**

### **11.1 Adjournment**

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

### **11.2 Remaining Business**

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

## **12.0 Petitions from the Public**

- 12.1 The Council will receive, accept and deal with petitions from members of the public in accordance with the requirements of any Petitions Scheme from time to time adopted by the Council. The Council's current Petitions Scheme is included in Part 5 of the Council's constitution.

## **13.0 Questions by the Public and Press**

### **13.1 General**

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

### **13.2 Order of questions**

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

### **13.3 Notice of questions**

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

### **13.4 Number of questions**

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

### **13.5 Scope of questions**

The Chief Executive will reject a question if it:

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

### **13.6 Asking the question at the meeting**

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

### **13.7 Absence of Member Named and Written answers**

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

## **14.0 Questions by Members**

### **14.1 On reports of the Cabinet or Committees**

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

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

### **14.3 Questions on notice at full Council**

Subject to Rule 14.5, a member of the Council may ask:

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

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

### **14.4 Questions on notice at Committees and Sub-Committees**

Subject to Rule 14.5, a member of a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the district and which falls within the terms of reference of that Committee or Sub-Committee.

### **14.5 Notice of questions**

A member may only ask a question under Rule 14.3 or 14.4 if they have given at least five working days' notice in writing of the question, limited to fifty words, to the Committee Services Manager. No Member shall submit more than one question.

### **14.6 Scope of questions**

A question shall not be:

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

### **14.7 Response**

An answer may take the form of:

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

#### 14.8 Supplementary question

A member asking a question under Rule 14.3 or 14.4 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### 14.9 Timing

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

#### 14.10 Written questions

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

- (i) The number of questions which may be asked by any one Member under this Rule at any one meeting shall be limited to one.
- (ii) There shall be no discussion of any question or answer.
- (iii) Any answer may take the form of:-
  - (a) A written answer circulated to Members of the Council at the Council Meeting or as soon as possible thereafter. Provided that where a question cannot be answered at the Council Meeting and in all cases where the member concerned exercises his/her right not to answer under Rule 14.10(v) the question and an explanation of the member's inability to answer or the reasons for his/her decision not to answer shall be circulated to all Members at the Council Meeting.
  - (b) Where the desired information is contained in a publication of the Council, a reference to that publication.
- (iv) All questions and answers shall be recorded in a Register to be maintained by the Democratic Services Manager.
- (v) Having sought advice from the Monitoring Officer, the member questioned shall have the power to decide that a question shall be not answered if he/she is satisfied that the public interest would not be served by it being raised or pursued.
- (vi) The Chairman shall not allow any question containing unbecoming language, imputation of improper motives or reflections of a personal character.
- (vii) A Member may withdraw their question at any time.

## **15.0 Reports from the Cabinet and Committees**

### **15.1 Reports from the Overview and Scrutiny Panels**

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

## **16.0 Rules of debate**

### **16.1 Motions Without Notice**

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) to change the order of business in the agenda;
- (c) to refer something to an appropriate body or individual;
- (d) to appoint a Committee or member arising from an item on the summons for the meeting;
- (e) to receive reports or adoption or rejection of recommendations of Committees or officers and any resolutions following from them;
- (f) to withdraw a motion;
- (g) to amend a motion;
- (h) to proceed to the next business;
- (i) that the question be now put;
- (j) to adjourn a debate;
- (k) to adjourn a meeting;
- (l) that the meeting continue beyond 3 ½ hours in duration;
- (m) to suspend a particular Council procedure rule;
- (n) to exclude the public and press in accordance with the Access to Information Rules;
- (o) to not hear further a member named under Rule 24.3 or to exclude them from the meeting under Rule 24.4; and
- (p) to give the consent of the Council where its consent is required by this Constitution.

### **16.2 No speeches until motion seconded**

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

### **16.3 Right to require motion in writing**

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

### **16.4 Secunder's speech**

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

### **16.5 Content and length of speeches**



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

#### **16.6 When a member may speak again**

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

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

#### **16.7 Amendments to motions**

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **16.8 Alteration of motion**

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

### 16.9 Withdrawal of motion

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

### 16.10 Right of reply

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

### 16.11 Motions which may be moved during debate

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

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

### 16.12 Closure motions

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

If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

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

### **16.13 Point of order**

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

### **16.14 Personal explanation**

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

### **16.15 Motion to rescind a previous decision**

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

### **16.16 Motion similar to one previously rejected**

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

## **17.0 Voting**

### **17.1 Majority**

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

### **17.2 Chairman's casting vote**

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

**17.3 Show of hands**

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

**17.4 Recorded vote**

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

**17.5 Right to require individual vote to be recorded**

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

**17.6 Recorded votes at Council budget decision meetings**

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

**17.7 Voting on appointments**

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

**17.8 Section 106 of the Local Government Finance Act 1992**

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

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

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

## **18.0 Minutes**

### **18.1 Signing the minutes**

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

### **18.2 Accuracy of minutes**

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

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

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

## **19.0 Record of Attendance**

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

## **20.0 Attendance at Meetings**

### **20.1 General**

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

This Rule shall not apply to the following bodies:-

- Management Appraisal Board (when acting)
- Licensing Board
- Appeals Panel
- General Purposes Committee when dealing with issues of officer conduct or employment
- Standards Committee

### **20.2 Attending meetings when Motions under Rule 3.7 will be discussed**

A Member of the Council in whose name a motion under Rule 3.7 has been referred by Council to another Committee shall have notice of the meeting of the Committee, Sub-Committee or Working Party at which it is proposed to consider the motion and he/she, or in his/her absence his/her seconder, shall have the opportunity of speaking to explain the motion and taking part in the debate.

### **20.3 Attendance of Chairmen/Vice-Chairmen of Committees**

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

### **20.4 Meetings of the Cabinet**

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

### **21.0 Special Meetings of Committees**

#### **21.1 Calling special meetings**

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

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

#### **21.2 Business**

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

#### **21.3 Timing**

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

### **22.0 Exclusion of Public**

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

## **23.0 Members' Conduct**

### **23.1 Standing to speak**

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

### **23.2 Chairman standing**

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

### **23.3 Member not to be heard further**

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

### **23.4 Member to leave the meeting**

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

### **23.5 General disturbance**

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

## **24.0 Disturbance by Public**

### **24.1 Removal of member of the public**

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

### **24.2 Clearance of part of meeting room**

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

## **25.0 Suspension and Amendment of Council Procedure Rules**

### **25.1 Suspension**

All of these Council Rules of Procedure except Rule 17.6, 17.7 and 18.2 may be suspended by motion on notice or without notice if at least one half of the whole

number of members of the Council are present. Suspension can only be for the duration of the meeting.

## **25.2 Amendment**

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

## **26.0 Application to Committees and Sub-Committees**

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

## **27.0 Members' Correspondence**

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

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

## **28.0 Urgent Action by or on Behalf of Committees/Boards**

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

## **29.0 Use of mobile telephones during public meetings**

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



### **30.0 Audio and Visual recordings of Council Meetings**

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

### **31.0 Public Speaking at Overview and Scrutiny Panel Meetings**

- 30.1 Public speaking at Overview and Scrutiny Panel meetings is allowed as per the scheme for Public Participation as included in Part 5 – Codes and Protocols of this constitution. ~~This Council Procedure Rule will be in effect between 14 July 2017 – 22 May 2018, unless otherwise extended.~~

# Access to Information Procedure Rules

## 1.0 Scope

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

## 2.0 Additional Rights to Information

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

## 3.0 Rights to Attend Meetings

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

## 4.0 Notices of Meeting

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

## 5.0 Access to Agenda and Reports before the Meeting

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

## 6.0 Items of Business

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

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

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

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

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

## **7.0 Supply of Copies**

7.1 The Council will supply copies of:

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

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

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

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

## **9.0 Background Papers**

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

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and

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

## **9.2 Public inspection of background papers**

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

## **10.0 Public's Rights**

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

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

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

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

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

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

### **11.3 Meaning of confidential information**

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

### **11.4 Meaning of exempt information**

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

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

1. Information relating to any individual. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
2. Information that is likely to reveal the identity of an individual. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
  - a) Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests;
  - b) Information is not exempt if it is required to be registered under:
    - Companies Act 1985;
    - Friendly Societies Acts 1974 and 1992;
    - Industrial and Provident Societies Acts 1965 to 1978;
    - Building Societies Act 1986;
    - Charities Act 1993.
  - c) The rights of access by Members are contained in Section 1007 of the 1972 Act.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
6. Information which reveals that the authority proposes
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Information is exempt if and so long as in all the circumstances of the case, the public interests in maintaining the exemption outweighs the public interest in disclosing the interests.

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

### **11.5 Disclosure by Members**

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

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

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

(a) that it contains confidential information; or

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

### **13.0 Review of confidential / exempt information**

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

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

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

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

### **14.0 Reporting of proceedings at Cabinet meetings**

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

### **15.0 Procedure prior to a Private Meeting of Cabinet**

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

- (a) a notice has been published in the Forward Plan and Exempt Cabinet Report List at least 28 clear days before the meeting in question and made available on the council's website and at Thanet Gateway Plus, Cecil Street, Margate. This notice is to include a statement of the reasons why the meeting, or part of the meeting, is held in private;
  - (b) a further notice will be published on the Council's website and at Thanet Gateway Plus, Cecil Street, Margate at least five clear working days before the meeting; such notice to include:
    - i. a statement of the reasons for the meeting to be held in private;
    - ii. details of any representations received by the Cabinet not later than 14 calendar days in advance of the meeting about why the meeting should be open to the public; and
    - iii. a statement of its response to any such representations, which will be decided upon by the Leader in consultation with the Monitoring Officer.
- 15.2 Where the date by which a Cabinet meeting must be held makes compliance with Rule 15.1 impracticable, the meeting, or part of the meeting, may only be held in private where Cabinet has obtained agreement from:
- a) the Chairman of the ~~relevant Overview and Scrutiny Committee~~Executive, Policy & Community Safety Scrutiny Panel; or
  - b) if there is no such person, or if the Chairman of the relevant Overview and Scrutiny ~~Committee~~Panel is unable to act, the Chairman of Council; or
  - c) where there is no Chairman of either the relevant Overview and Scrutiny ~~Committee~~Panel or of Council, the Vice-Chairman of Council.

## 16.0 Publicity in connection with key decisions

- 16.1 Subject to Rule 18 (general exception) and Rule 19 (special urgency), a key decision may not be taken unless:
- (a) a notice has been published in the Forward Plan and Exempt Cabinet Report List in connection with the matter in question;
  - (b) the notice referred to at sub paragraph (a) has been available for public inspection at least 28 days at Thanet Gateway Plus, Cecil Street, Margate and on the Council's website;
  - (c) where the decision is to be taken at a meeting of the Cabinet or its Committees notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## 17.0 The Forward Plan and Exempt Cabinet Report List

### 17.1 Contents of forward plan and exempt cabinet report list

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

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

The Forward Plan and Exempt Cabinet Report List must be published on the Council's website and at Thanet Gateway at least 28 clear days before a key decision is made.

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

## 18.0 General Exception

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

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

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



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

## 19.0 Special Urgency

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

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

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

## 19.3 Provision of urgent reports to Ward Members

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

## 20.0 Report to Council

- 20.1 ~~When the Executive, Policy & Community Safety~~**Finance, Budget and Performance Scrutiny Panel** ~~can require a report~~

Where an executive decision has been made and:

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

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

## 20.2 Cabinet's report to Council

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

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

## 20.3 Quarterly reports on special urgency decisions

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

## 21.0 Recording of executive decisions made at meetings

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

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decisions; and

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Council's Head of Paid Service, following consultation with the Monitoring Officer.

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

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

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

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

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

### **22.2 Recording of executive decisions made by Officers**

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

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

### **23.0 Rights of access to documents for members of the Overview and Scrutiny Committees**

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

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

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

### **23.3 Limit on rights**

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

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

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

### **23.4 Additional rights**

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

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

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

- (a) is in the possession or under the control of the Cabinet; and

- (b) contains material relating to any business to be transacted at a public meeting, must be available for inspection by any Member of the Council.
- 24.2 Any document which is required by Rule 24.1 to be available for inspection by any Member of Council must be available for such inspection for at least five clear days before the meeting except that:
- (a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Rule 24.1 in relation to that item, must be available for inspection when the item is added to the agenda.
- 24.3 Subject to Rules 24.5 and 24.6, any document which:
- (a) is in the possession or under the control of the Cabinet; and
- (b) contains any material relating to:
- i.) any business transacted at a private meeting or part of a meeting held in private;
- ii.) any decision made by an individual member in accordance with executive arrangements; or
- iii.) any decision made by an officer in accordance with executive arrangements
- must be available for inspection by any Member of the Council when the meeting concludes or where an executive decision is made by an Individual Member or an Officer immediately after the decision has been made.
- 24.4 Any document which is required by Rule 24.3 to be available for inspection by any Member of Council must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.
- 24.5 Rules 24.1 and 24.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information of a description falling within Part 1 of Schedule 12A to the Local Government Act 1972 (descriptions of exempt information: England).
- 24.6 Notwithstanding Rule 24.5, Rules 24.1 and 24.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:
- (a) paragraph 3 of Schedule 12A to the Local Government Act 1972 (except to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 12A to the Local Government Act 1972.
- 24.7 Where it appears to the proper officer that compliance with Rules 24.1 or 24.3 in relation to a document or part of a document would involve the disclosure of advice

provided by a political adviser or assistant, that paragraph will not apply to that document or part.

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

**24.9 Agendas and Reports**

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

# Budget and Policy Framework Procedure Rules

## 1.0 The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

## 2.0 Process for Developing the Framework

The process by which the budget and policy framework shall be developed is:

- (a) After consulting stakeholders in a manner appropriate to the matter under consideration, the Cabinet will draw up initial proposals in relation to any plan, strategy or budget which forms part of the Council's budget and policy framework. Once drawn up the proper officer will serve copies of them on the Chairmen of relevant Overview and Scrutiny ~~Committees~~ Panels together with dates when the Cabinet will consider them further, which shall be at least 6 weeks after service of the notice on the Chairman (unless the relevant Overview and Scrutiny ~~Committee~~ Panel concludes its consideration of the matter in a shorter time in which case the following shall apply:-
  - (i) if there are no scrutiny representations the matter shall be deemed to be a recommendation of the Cabinet and shall be referred direct to Council, unless the Leader or relevant portfolio holder requests that the matter be returned to Cabinet first; or
  - (ii) if there are any scrutiny representations the Cabinet may consider them at its next meeting.
- (b) The relevant Overview and Scrutiny ~~Committee~~ Panel will be generally convened within 7 working days to consider whether to respond to the Cabinet's initial proposals and whether any consultation by it is appropriate, unless the ~~Democratic Committee~~ Services Manager, in consultation with the relevant Overview and Scrutiny ~~Committee~~ Panel Chairman, agrees to put the matter on the agenda for the next scheduled meeting. If so the relevant Overview and Scrutiny ~~Committee~~ Panel will conduct a consultation exercise and will reflect any representations made to it in its response to the Cabinet within the timescale set for decision by the Cabinet.
- (c) The Cabinet will finalise its proposals for the Council to consider having taken into account the comments from the relevant Overview and Scrutiny ~~Panel~~ Committee. The report to Council will show the Cabinet's response to those comments.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposal without amendment) or (if the Cabinet's proposal is not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader formally objects in that period.

- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the proper officer to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the proper officer shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 10 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

~~NB. — In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.~~

### **3.0 Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of paragraph 5 (virement) the Executive, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, Committees of the Cabinet, individual members of the Cabinet and any officers, area Committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

### **4.0 Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Cabinet, a Committee of the Cabinet, an individual member of the Cabinet or officers, area Committees or joint arrangements discharging Executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:



- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chairman of a relevant Overview and Scrutiny ~~Committee~~ Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny ~~Committees'~~ Panel's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Overview and Scrutiny ~~Committee~~ Panel the consent of the Chairman of the Council, and in the absence of both the Vice-Chairman, will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## 5.0 Virement

- (a) The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.
- (b) Key controls for the scheme of virement are:
  - (i) it is administered by the Section 151 Officer within guidelines set by the Full Council who must approve any variation from this scheme.
  - (ii) the overall budget is proposed by the Cabinet for approval by the Full Council. Chief Officers and budget holders are therefore authorised to incur expenditure in accordance with the estimates that make up the budget as amended by any virement agreed under the Financial Procedure Rules which set out the relevant limits.
  - (iii) virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. In particular, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.
- (c) No virement relating to a specific financial year should be made after 31<sup>st</sup> March of that year.
- (d) Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
  - (i) the amount is used in accordance with the purposes for which it has been established.
  - (ii) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

## 6.0 Call-In of Decisions Outside the Budget or Policy Framework

- (a) Where the relevant Overview and Scrutiny Panel is of the opinion that a decision of the Cabinet is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the relevant -Overview and Scrutiny Committee-Panel if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the relevant Overview and Scrutiny CommitteePanel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 days of the request by the Overview and Scrutiny PanelCommittee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Financial Officer. The Council may either:
  - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (ii) amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Financial Officer.

# Cabinet Procedure Rules

## 1.0 How Does the Cabinet Operate?

### 1.1 Who may make Executive decisions?

The Leader may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet ;
- (iii) an individual member of the Cabinet ;
- (iv) an officer;
- (v) an area Committee;
- (vi) joint arrangements; or
- (vii) another local authority.

### 1.2 Delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- (ii) the extent of any portfolio, including any authority delegated to portfolio holders individually, with details of any limitation on their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to area Committees, any other authority or any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and
- (vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

In the event of such a document not being so presented those matters within (ii) to (vi) previously in place shall continue in effect, and appointments under (i) shall be made accordingly, until any changes are made subsequently in accordance with these Rules and reported to a meeting of the Council.

### 1.3 Sub-delegation of Executive functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to an area Committee, joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

- (d) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **1.4 The Council's scheme of delegation and Executive functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader is able to decide whether to delegate Executive functions, and he/she may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the proper officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chairman.

#### **1.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

#### **1.6 Cabinet meetings – when and where?**

The Cabinet will meet at least 12 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

#### **1.7 Public or private meetings of the Cabinet?**

Meetings of the Cabinet shall be public except as permitted under Rule 11 of the Access to Information Procedure Rules.

#### **1.8 Quorum**

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one half of the total number of members.

## 1.9 How are decisions to be taken by the Cabinet?

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Cabinet, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2.0 How are Cabinet Meetings Conducted?

### 2.1 Who presides?

The Leader will preside at any meeting of the Cabinet or its Committees at which he/she is present, or may appoint another person to do so and if the Leader does not appoint another person to preside, then the Deputy Leader will preside. If he/she is also absent, then a person appointed to do so by those present shall preside.

### 2.2 What business?

At each meeting of the Cabinet the Leader (or the person acting in his or her absence) will decide the order of business to be conducted.

### 2.3 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget ~~and or~~ policy framework must contain details of the nature and extent of consultation with stakeholders and the ~~relevant~~ ~~Overview and~~ Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### 2.4 Who can put items on the Cabinet agenda?

The Leader, or Cabinet member nominated by the Leader, will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any member or officer in respect of that matter. The proper officer will comply with the Leader's requests in this respect.

The proper officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.

Any member of the Council may ask the Leader, in writing, to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a

Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.5 Presentation of petitions at Cabinet meetings**

Under the Council's Petitions Scheme, it is possible for Council to refer to Cabinet without debate a petition containing 1,000 or more signatures if that petition relates to an issue for which the executive has responsibility.

The person who presented the petition at the meeting of Council prior to it being referred to Cabinet will be able to re-present the petition at the meeting of Cabinet at which the petition is considered, and will have up to five minutes to do so.

[See further:-

For election of Leader, see Article 7.

For role of Deputy Leader, see Article 7.

For Overview and Scrutiny Committees, see Article 6.]

# Overview and Scrutiny Procedure Rules

## 1.0 What will be the Number of and Arrangements for Overview and Scrutiny Panels?

- (a) Unless the Council decides otherwise under Article 6, the Council will always have at least one Overview and Scrutiny Panel, which will perform all Overview and Scrutiny functions on behalf of the Council.

(NB. Scrutiny arrangements effective from ~~12<sup>th</sup> July 1<sup>st</sup> October 2018~~ 2002 are detailed in ~~the Annex to~~ Article 6.)

- (b) Unless otherwise provided in Article 6, the terms of reference of the Overview and Scrutiny Panel will be:
- (i) to perform all Overview and Scrutiny functions on behalf of the Council;
  - (ii) to appoint such Sub-Committees and working parties as it considers appropriate to fulfil and assist with Overview and Scrutiny functions;
  - (iii) to receive any reports from the Leader on the Cabinet's priorities for the coming year and its performance in the previous year;
  - (iv) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints so as to ensure that the Panel's and Sub-Committee's time is effectively and efficiently utilised;
  - (v) where matters fall within the remit of more than one Overview and Scrutiny Sub-Committee, to determine which of those Sub-Committees will assume responsibility for any particular issue;
  - (vi) to put in place a system to ensure that referrals from Overview and Scrutiny to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed the limits set out in this Constitution;
  - (vii) in the event of reports to the Cabinet exceeding limits in this Constitution, or if the volume of such reports creates difficulty for the management of Cabinet business or jeopardises the efficient running of Council business, at the request of the Cabinet, to prioritise referrals made.

(NB. Current scrutiny arrangements are detailed in ~~the Annex to~~ Article 6.)

- (c) Any Overview and Scrutiny Panel may discontinue any Sub-Committee and/or appoint alternative or additional Sub-Committees. The Panel may also amend the terms of reference of any Sub-Committee as appropriate.
- (d) Where any Panel seeks to discontinue or appoint Sub-Committees, it may do so provided that it has consulted with interested parties, if appropriate. The extent and nature of consultation will depend on the nature of the proposed alterations. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny Panel, so that the Constitution may be amended accordingly.

## 2.0 Who May Sit on Overview and Scrutiny Panels?

- (a) All Councillors except members of the Cabinet and the Chairman and Vice Chairman of Council are eligible to be members of an Overview and Scrutiny Panel.
- (b) Any Overview and Scrutiny Panel ~~or Sub-Committee or Working Party~~ shall be entitled to appoint up to ~~three~~ two people who are not Members of the Council as non-voting co-optees. If these co-optees are subject to a circumstance that would disqualify them from being a Councillor (such as

being bankrupt, they would be ineligible to become a co-optee. However a co-optee would not need to fulfil the same qualification criteria as a Councillor of TDC in order to be a co-optee. (i.e. that they lived or worked in the district)

- (c) The Panel, ~~Sub-Committee or Working Party~~, shall also be entitled to appoint up to ~~three~~ two additional Members of the Council from among those members who are eligible to assist with their work where those additional members are considered to have particular skills, knowledge or experience relevant to the matter ~~assigned to the Sub-Committee or Working Party~~ under consideration. Such additional Members shall not be entitled to vote.

### 3.0 Scrutiny Requirements

- (a) No member, co-optee or additional member may be involved in scrutinising a decision in which he/she has made.
- (b) Co-optees shall be required to declare any interest, pecuniary or otherwise, as if they were a Member of the Council.
- (c) Co-optees shall comply with the Council's Rules.

### 4.0 Meetings of the Overview and Scrutiny Panel

There shall be at least 6 ordinary meetings of each Overview and Scrutiny Panel in each year and the total number of meetings shall be determined by the Chairman of that Panel, in conjunction with Officers. In addition, extraordinary meetings may be called from time to time as and when appropriate. An ~~Overview and Scrutiny~~ Panel meeting may be called by the Chairman of the relevant ~~Overview and Scrutiny~~ Panel, by any ~~5~~ 4 members of the Panel or by the proper officer if he/she considers it necessary or appropriate.

### 5.0 Quorum

The quorum for an Overview and Scrutiny Panel shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

~~The quorum for a Sub-Committee or Working Party shall be one-half of the membership provided that a quorum shall never be less than two.~~

### 6.0 Who Chairs Overview and Scrutiny Panel Meetings?

Any Overview and Scrutiny Panel will be chaired by a Councillor in accordance with the Council Procedure Rules.

~~(b) Chairmen of Overview and Scrutiny Sub-Committees and working parties will be drawn from among the Councillors sitting on the Sub-Committee or Working Party and subject to this requirement the Sub-Committee or Working Party may appoint such a person as it considers appropriate as Chairman.~~

### 7.0 Work Programme

Any Overview and Scrutiny Panel will be responsible for setting their own work programme and in doing so they shall take into account wishes of all members on that Panel ~~who are not~~ including members ~~who are not~~ offrom the largest political group on the Council.

~~NB. In order to allow sufficient time to adequately consider the development of the budget framework, the relevant scrutiny panel should normally ensure that any necessary Budget Working Parties are established or other arrangements made by mid-September in each year.~~



## 8.0 Agenda Items

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

## 9.0 Policy Review and Development

- (a) The role of the relevant Overview and Scrutiny Panel in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework the relevant Overview and Scrutiny Panel may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The relevant Overview and Scrutiny Panel may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so, as determined by the Chairman of the Overview and Scrutiny Panel in consultation with the Monitoring Officer.

## 10.0 Reports from Overview and Scrutiny Panels

- (a) Once it has formed recommendations on proposals the relevant Overview and Scrutiny Panel will prepare a formal report and submit it to the proper officer for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (eg, if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) The Council or Cabinet shall consider the report of any Overview and Scrutiny Panel within 6 weeks of it being submitted to the proper officer.

## 11.0 Making Sure that Overview and Scrutiny Reports are Considered by the Cabinet

- 11.1 Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 6 weeks from the date the report was adopted by the relevant Overview and Scrutiny Panel. In such cases, the report of ~~the-an~~ Overview and Scrutiny Panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Cabinet. The Cabinet should provide their response to such a report from ~~the-an~~ Overview and Scrutiny Panel in writing.
- 11.2 Where an Overview and Scrutiny Panel prepares a report for consideration by the Cabinet in relation to a matter where an individual member of the Cabinet has delegated decision making power, then ~~thate~~ Overview and Scrutiny Panel will submit a copy of their report to that individual for consideration.
- 11.2.1 At the time of doing so the relevant Overview and Scrutiny Panel shall serve a copy the report on the proper officer and the Leader (unless it is the Leader who has the delegated decision making power). If the member with delegated decision making power does not accept the recommendations of ~~thate~~ Overview and Scrutiny Panel then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to ~~thate~~ Overview and Scrutiny Panel.
- 11.2.2 The Cabinet member to whom the decision making power has been delegated will respond to the relevant Overview and Scrutiny Panel within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she may attend a future meeting to respond.
- 11.3 Not more than 6 reports in any three-month period may be submitted by any Overview and Scrutiny Panel to the Cabinet.
- 11.4 Any Overview and Scrutiny Panel will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from ~~anthe~~ Overview and Scrutiny Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

## 12.0 Rights of Overview and Scrutiny Panel Members to Documents

In addition to their rights as Councillors, members of Overview and Scrutiny Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. Nothing in this paragraph prevents more detailed liaison between the Cabinet and any Overview and Scrutiny Panel as appropriate depending on the particular matter under consideration.

### 13.0 Members and Officers Giving Account

(a) Any Overview and Scrutiny Panel or a Sub-Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions relevant to their terms of reference. As well as reviewing documentation, in fulfilling the scrutiny role, a panel may require any member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance.

and it is the duty of those persons to attend if so required.

(b) Where any member or officer is required to attend ~~an Overview and Scrutiny~~ Panel meeting ~~or Sub-Committee~~ under this provision, the Chairman will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel ~~or Sub-Committee~~ will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

(c) Where, in exceptional circumstances (as determined by the Chairman of the relevant Overview and Scrutiny Panel), the member or officer is unable to attend on the required date, then the Chairman of ~~the Overview and Scrutiny~~ Panel ~~or Sub-Committee~~ shall in consultation with the member or officer arrange an alternative date for attendance.

### 14.0 Attendance by Others

(a) An Overview and Scrutiny Panel ~~or Sub-Committee~~ may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

(b) Working parties may invite attendance by those mentioned in 13 and 14 (a) above.

### 15.0 Call-In

(a) Call-in should only be used in exceptional circumstances, for example, where members of the ~~appropriate Overview and~~ Executive, Policy & Community Safety Scrutiny Panel have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making).

(b) When a decision is made by the Cabinet, an individual member of the Cabinet or a Panel of the Cabinet, or a key decision is made by an officer with delegated authority

from the Cabinet, or an area Panel or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. The Chairman of the [Executive, Policy & Community Safety](#)~~relevant Overview and~~ Scrutiny Panel will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (c) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the [Executive, Policy & Community Safety](#)~~relevant Overview and~~ Scrutiny Panel objects to it and calls it in.
- (d) During that period, the proper officer shall call-in a decision for scrutiny by the Panel if so requested in writing (including e-mail) specifying the decision in question with a brief statement of reasons for the call-in by the Chairman or any ~~five~~<sup>four</sup> members of the Panel (who shall not all be from the same political group), and shall then notify the decision-taker in writing of the call-in.
- (e) If a decision is called-in then a meeting of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel must be called within 15 calendar days of the decision to call in, unless the Leader of the Council (or the Deputy Leader in the Leaders absence) and the Chairman of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel have agreed that the call-in may take place at the next scheduled meeting of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel.
- (f) The [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel may instead of exercising the function of call-in itself, arrange for the function to be exercised by full Council.
- (g) The decision notice and the report underpinning the decision will be made available, to the Panel but no witnesses (other than persons who reported directly to the decision maker) will be called in respect of the call-in.
- (h) If, having considered the decision, the Panel is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns. If referred to the decision maker they shall then reconsider within a further 15 working days from the date of the meeting, amending the decision or not, before adopting a final decision.
- (i) If it has not been agreed to consider the objection at the next scheduled meeting of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel, but the Panel does not hold a valid meeting within the 15 calendar day period (as set out in (e) above), or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the expiration of that period or the date of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny [Panel](#) meeting, whichever is the earlier.
- (j) If it has been agreed to consider the objection at the next scheduled meeting of the [Executive, Policy & Community Safety](#)~~Overview and~~ Scrutiny Panel (as set out in (e) above), but the Panel does not meet, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the scheduled [Overview and Scrutiny](#)~~Panel~~ meeting at which it was due to be considered.

- (k) If the Call-In function is referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective on the date of the Council Meeting.
- (l) However, if the Council does object to a decision which has been made, it has no power to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it.
- (m) Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 15 working days of the Council meeting. Where the decision was made by an individual, the individual will reconsider within 15 working days of the Council meeting.
- (n) If the Council does not meet within 15 working days of the day on which the matter was referred to full Council the decision will become effective on the expiry of that period.
- (o) Where a Cabinet decision has been taken by an area Committee then the right of call-in shall extend to any other area Committee which resolves to refer a decision which has been made but not implemented to a relevant Overview and Scrutiny Panel for consideration in accordance with these provisions. An area Committee may only request the proper officer to call-in the decision if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised by members of [the Executive, Policy & Community Safety](#)~~a relevant Overview and Scrutiny Panel~~.

### **Call-in and urgency**

- (p) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.
- (q) The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (r) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **16.0 The Party Whip**

When considering any matter in respect of which a member of an [Executive, Policy & Community Safety](#)~~Overview and Scrutiny Panel, Sub-Committee or Working Party~~ is subject to a party whip, the member must declare the existence of the whip, and the

nature of it before the commencement of the Panel, ~~Sub-Committee or Working Party's~~ deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## 17.0 Procedure at Overview and Scrutiny Panel Meetings

- (a) Overview and Scrutiny Panels shall consider the following business:
- (i) minutes of the last meeting;
  - (ii) declarations of interest (including whipping declarations);
  - (iii) consideration of any matter referred to the Panel for a decision in relation to call-in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Panel; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where ~~the Executive, Policy & Community Safety~~ any Overview and Scrutiny Panel conducts investigations (eg, with a view to policy development), the Panel may also ask people to attend to give evidence at Panel meetings which are to be conducted in accordance with the following principles:
- (i) that the investigation be conducted fairly and all members of the Panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the Panel by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public unless involving confidential or exempt information.
- ~~(d) These rules shall apply to Sub-Committees and working parties. Their reports shall be referred to the Panel in the first instance.~~

## 18.0 Confidential and Exempt Information

Until reported to any Overview and Scrutiny Panel, the work of any ~~Sub-Committee or Working Party~~ Scrutiny Review dealt with when the public have been excluded from the meeting shall be treated as being subject to a requirement not to disclose the same in any way to any third party, unless there is a legal requirement to disclose such information. [For the purposes of this rule a "third party" shall not include any Member or officer of the Council nor any person co-opted as a member of a Sub-Committee or Working Party.]

# Councillor Call for Action (CCFA)

## Protocol

### **Contents**

1. Introduction
2. How to make a CCfA
3. Potential Outcomes

### **Appendices**

- A) CCfA Request Form
- B) Overview & Scrutiny CCfA Guidance
- C) CCfA Flowchart

## Councillor Call for Action Protocol - CCfA

### 1.0 Introduction

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

The Act enables any Member of the Council to refer to [the Executive, Policy & Community Safety Overview & Scrutiny Committee / Sub-Committee](#) any local government matter or any crime and disorder matter which affects their ward.

### 1.1 Limitations

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

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

### 1.2 Issues excluded from referral as a CCfA

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

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

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

A referral made to the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#) is seen as being at the end of the CCfA process (the last resort) and not the first step.

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

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

- If a local crime and disorder matter, raise the issue through the Community Safety Partnership to find a way to resolve the issue;



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

## 2.0 How to make a Councillor Call for Action referral

If the issue / problem is still not resolved the Councillor can refer it to the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#) as a Councillor Call for Action. To do this the Councillor should:

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

## 2.1 Decision of the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#) whether to take the matter further

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

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

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

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

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

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

Before holding a formal hearing:

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

At formal hearing:

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

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

### 3.0 Potential outcomes

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

- The Panel could determine not to make a report (perhaps because it is not considered the right time to consider a particular issue), with the Ward Councillor notified in writing;

- The Panel could determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- The Panel could write a report and make recommendations on the CCfA to the Cabinet or relevant partner(s).

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

### 3.1 Timescales

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

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

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

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

Appendix A

## THANET DISTRICT COUNCIL

### Councillor Call for Action (CCfA) Request Form

This form is for District Councillors to raise topics of concern to Thanet District Council to enable investigation by the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#), or other method as appropriate.

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

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

<b>Your contact details:</b>
Name (print);
<b>Address:</b>
<b>Contact number:</b>
<b>Email address:</b>

<b>The Ward you represent:</b>

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

**Why are you raising the topic?**

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

**Who does it affect?**

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






**What solutions have already been tried?**

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

**What outcomes are required?**

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

**What evidence do you have in support of your CCfA?**

- Letters 
- Emails 
- Agendas/Minutes of meetings 
- Photographs 
- Film 



Other (please specify)

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

**What (if any) are the critical deadlines?**

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


**Would you like the opportunity to speak to the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#)?**

Yes  No 

**Have you approached the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#) on the same issue in the past six months?**

Yes  No 

**Would you like your response by:**

Email  Letter 

<b>Signature:</b>	<b>Date of submission:</b>
-------------------	----------------------------

Please complete and return the form to:  
 Nick Hughes  
 Committee Services Manager  
 Thanet District Council  
 Council Offices  
 Cecil Street  
 Margate  
 Kent CT9 1XZ

Appendix B

**Executive, Policy & Community Safety Overview & Scrutiny Committee Panel  
Councillor Call for Action (CCfA) Guidance**

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

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

## Explanatory Notes

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

Local Government matter

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

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

Local Crime and Disorder matter

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

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

### 2. Definitions of 'vexatious', 'persistent', 'discriminatory' and 'not reasonable'

Statutory regulations deal with matters that can be excluded from CCfA, stating that 'any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the [Executive, Policy & Community Safety Overview & Scrutiny Committee Panel](#) is to be excluded'.

#### Vexatious/Persistent

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

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

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

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



### **Discriminatory**

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

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

### **Not reasonable**

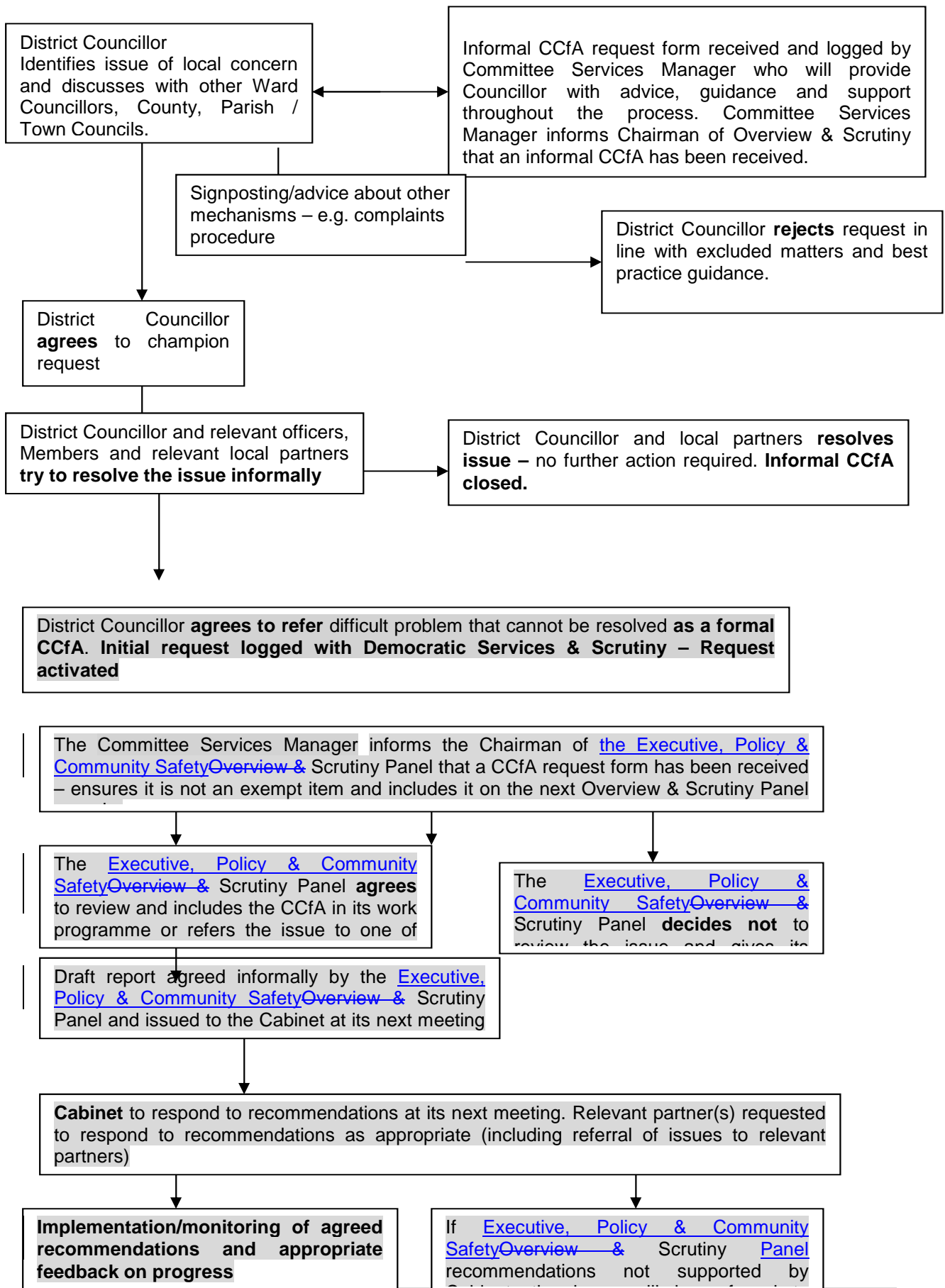
It is suggested that, in the interests of transparency, authorities do not interpret 'not reasonable' as being the same as the legal word 'unreasonable'. It is best to consider it as a qualifier to the word 'vexatious', as a vexatious request is likely not to be reasonable and a request that is not reasonable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

### **3. Structure of the CCfA hearing**

The Chairman of the [Executive, Policy & Community Safety Overview & Scrutiny Panel](#) will determine the most appropriate arrangements for considering the CCfA matter.

Appendix 3

**Flow Chart of CCfA Mechanism**



# Financial Procedure Rules

## The Status of the Financial Procedure Rules

### 1.0 What are Financial Procedure Rules?

1.1 Financial Procedure Rules (the Rules) are a set of regulations which provide the framework for managing the Council's affairs. They identify the financial responsibilities of Full Council, the Cabinet, the Section 151 Officer, Services Directors and other employees.

### 2.0 Who do the Rules apply to?

2.1 They apply to every Member and officer of the Council, and anyone acting on the Council's behalf.

### 3.0 What are the general responsibilities under the Rules?

3.1 Financial management covers all financial accountabilities in relation to the running of the Council including the policy framework and budget. It is not possible to draft regulations or rules that cover every eventuality or circumstance. Consequently, the principles of sound financial management, proper exercise of responsibility, and accountability, as set out in the Rules, should be applied in all circumstances, even where any particular circumstance is not specifically referred to.

3.2 All Members and officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.

3.3 Cabinet Members and Services Directors must maintain a written record where decision making has been delegated to others, including any seconded staff. Where decisions have been delegated or devolved to any other person, references to the Head of Service in the Rules should be read as referring to them.

3.4 The Section 151 Officer is responsible for reviewing the Rules and for submitting any additions or changes necessary to Full Council for approval. The Section 151 Officer is also responsible for reporting, where he/she thinks appropriate, breaches of the Rules to the Council and/or to the Cabinet.

3.5 The Section 151 Officer is responsible for issuing procedure notes, advice and guidance to underpin the Rules that Members, officers and others acting on behalf of the Council are required to follow.

3.6 Services Directors are responsible for ensuring that all staff in their departments are aware of the existence of, and, in consultation with the Section 151 Officer, trained in the use and content of the Rules and other internal regulatory documents and that they are complied with at all times. They must also ensure that an adequate number of copies are available for reference within their departments.

3.7 If a Member or officer is unclear about any aspect of these rules they should seek advice before acting. Normally they should seek guidance from their line manager, but are also free to approach their Head of Service, Section 151 Officer, Head of Resources or the Financial Services Manager direct.

- 3.8 The Rules also place specific responsibilities on :
- Line Managers, for the day to day financial operation of their section;
  - The Resources service, for promoting high financial standards;
  - Services Directors, for monitoring the overall financial state of their business group and advising the appropriate Cabinet Member on proposals that have a financial impact.
- 3.9 All Members and officers have a duty to act if they believe there is a possibility of fraud, corruption or poor value for money taking place or if the Rules are being broken. In such cases they must inform their line manager (unless that person is suspected of being involved) and the Monitoring Officer and the Section 151 Officer.
- 4.0 What happens if the Rules are broken?**
- 4.1. The Section 151 Officer's approach is that all Members and officers must exhibit the highest standards of probity when they deal with the Council's finances. These Rules present the processes that should be followed, and individuals are expected to exercise their common sense and judgement, particularly in any unusual or urgent situation. Breaches may however be serious enough to warrant disciplinary action.
- 4.2. Services Directors must report any breaches to the Section 151 Officer.
- 4.3. The Section 151 Officer has a responsibility to report breaches of the Rules where he/she thinks appropriate to the Council or the Cabinet.
- 5.0 What happens in an emergency situation?**
- 5.1. On rare occasions, officers are faced with an emergency and may need to act swiftly. It is recognised that in these circumstances officers need to use their best judgement, balancing the need of the service, severity of the emergency and the financial consequences of their actions. Detailed notes of actions taken must be kept and wherever possible officers should seek clearance from their Head of Service or the Section 151 Officer before proceeding.
- 5.2. Officers must seek retrospective approval for their actions. They must contact their Head of Service who will be responsible for co-ordinating such information, and report the matter to the Section 151 Officer.

## Regulation A: Financial Management

### Introduction

- A.1 Financial Management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget.

### Full Council

- A.2 Full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control. The framework is set out in the Constitution. Full Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.

- A.3 Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees, details of which are set out in the Constitution.

### **The Cabinet**

- A.4 The Cabinet is responsible for proposing the policy framework and budget to Full Council, and for discharging Cabinet functions in accordance with the policy framework and the budget.
- A.5 Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an officer or a joint committee.
- A.6 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his/her delegated authority. In doing so, the individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

### **Committees of the Council**

#### **Overview and Scrutiny Committees (see Article 6 of Constitution)**

- A.7 The Overview and Scrutiny Committees are responsible for scrutinising executive (both Member and officer) decisions before or after they have been implemented and for holding the Cabinet to account. These committees are also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the Council.
- A.8. The Finance, Best Value and Performance Review Panel is responsible for scrutinising the Budget and financial management arrangements of the Council.

#### **Standards Committee (see Article 9 of Constitution)**

- A.9 The Standards Committee is established by Full Council and is responsible for promoting and maintaining high standards of conduct amongst councillors. In particular, it is responsible for advising the Council on the adoption and revision of the Members' Code of Conduct and for monitoring the operation of the Code.

#### **Regulatory and other Committees (see Article 8 of the Constitution)**

- A.10 The Governance and Audit Committee is a sub Committee of Full Council and is responsible for:
- Receiving and approving the annual Internal Audit Plan.
  - Receiving regular reports on progress against the Plan.
  - Receiving reports on "unsatisfactory" audits.
  - Approving the Council's Financial Statements.

### **The Statutory Officers**

#### **The Head of Paid Service (Chief Executive)**

- A.11 The Head of Paid Service is responsible for the corporate and overall strategic management of the Council as a whole. He/she must report to and provide information for the Cabinet, Full Council, the Overview and Scrutiny committees and

the other committees. He/she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all Council's decisions.

### **The Monitoring Officer**

- A.12 The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Standards Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to Full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
- A.13 The Monitoring Officer must ensure that executive decisions and the reasons for them are made public. He/she must also ensure that Council Members are aware of decisions made by the Cabinet and of those made by officers under delegated authority.
- A.14 The Monitoring Officer is responsible for advising all Councillors and officers about who has the authority to make a particular decision. Should a situation arise whereby the Section 151 Officer is not a member of the Corporate Management Team, then an appropriate protocol will be submitted for approval by Council to facilitate access to this group to allow him/her to fulfil his/her statutory duties.
- A.15 The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the policy framework.
- A.16 The Monitoring Officer is responsible for advising the Cabinet or Full Council about whether a decision is likely to be considered contrary to, or not wholly in accordance with the budget. Actions that may be "contrary to the budget" include:
- Initiating a new policy.
  - Committing expenditure in both the current and future years to above the budget level.
  - Incurring transfers above the virement limits.
- A.17 The Monitoring Officer is responsible for maintaining an up-to-date constitution.

### **The Section 151 Officer**

- A.18 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- Section 151 of the Local Government Act 1972
  - The Local Government Finance Act 1988
  - The Local Government and Housing Act 1989
  - The Local Government Act 2003
  - The Accounts and Audit Regulations 2003
  - The Local Authorities (Capital Finance and Accounting) (England) Regulations 2003
- A.19 The Section 151 Officer is responsible for:
- The proper administration of the Council's financial affairs

- Setting and monitoring compliance with financial management standards
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- Providing financial information
- Preparing the revenue budget and capital programme.

A.20 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to Full Council, Cabinet and the Council's external auditor if the Council or one of its officers:

- Has made, or is about to make, a decision which involves incurring unlawful expenditure
- Has taken, or is about to take, an unlawful action which has resulted, or would result in a loss or deficiency to the Council
- Is about to make an unlawful entry in the Council's accounts.

Section 114 of the 1988 Act also requires:

- The Section 151 Officer to nominate a properly qualified member of staff to deputise should he/she be unable to perform the duties under Section 114 personally
- The Council to provide the Section 151 Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114. Should a situation arise whereby the Section 151 Officer is not a member of the Corporate Management Team, then an appropriate protocol will be submitted for approval by Council to facilitate access to this group to allow him/her to fulfil his/her statutory duties.

### **Directors of Services**

A.21 Directors of Services are responsible for:

- Ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Section 151 Officer
- Signing contracts on behalf of the Council.
- Controlling and monitoring income and expenditure within the approved budget.

A.22 It is the responsibility of Directors of Services to consult with the Corporate Director (Resources) and seek approval on any matter liable to affect the Council's finances materially, before any commitments are made.

### **Other Financial Accountabilities**

#### **Virement**

A.23 Full Council is responsible for agreeing procedures for virement of expenditure between budget heads. The approved scheme is:

Budget Holders can (subject to the conditions outlined in the Budget Holders Handbook) vire up to £10,000 within a budget heading.

Directors of Services can (subject to the conditions outlined in the Budget Holders Handbook) vire funds within a budget heading without the requirement to seek Cabinet approval. Where the virement transfers money between different services under their control, there is a limit of £20,000.

Section 151 Officer in consultation with the Corporate Management Team can (subject to the conditions outlined in the Budget Holders Handbook) authorise any transfer between budget headings of between £20,000 and £50,000.

Cabinet approval should be sought for all virements between budget headings which are in excess of £50,000.

For the purposes of this, a budget heading is a line in the estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service expenditure Analysis. For capital schemes, the budget headings are considered to be the scheme budgets.

Virements will only be permitted where the expenditure is in accordance with the Budget and Policy Framework agreed by Full Council, unless Full Council agrees the virement. There can be no virements between the General Fund and the Housing Revenue Account or from reserves, building maintenance budgets or central recharges.

### **Treatment of year-end balances on budgets**

A.24 The Section 151 Officer is responsible for agreeing any procedures for carrying forward under and overspendings on budget heads.

### **Accounting Policies**

A.25 The Section 151 Officer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### **Accounting Records and Returns**

A.26 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council

### **The Annual Statement of Accounts**

A.27 The Section 151 Officer is responsible for ensuring that the annual Statement of Accounts is prepared in accordance with *the 'Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice'* (CIPFA/LASAAC) and the *'Best Value Accounting Code of Practice'* (BVACOP), which constitute proper practices as set out in the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003.

A.28 The Governance and Audit Committee, a sub-committee of Full Council, is responsible for approving the annual Statement of Accounts.

### **Procedure Note**

A.29 A Procedure Note in relation to Regulation A is attached as Appendix A and forms part of the Rules.



## Regulation B: Financial Planning

### Introduction

- B.1 Full Council is responsible for agreeing the Council's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- The Community Plan.
  - The Corporate Plan.
  - The Medium Term Financial Strategy and Capital Investment Strategy.
  - The General Fund and Housing Revenue Account (HRA) Budget and the Capital Programme.

### Policy Framework

- B.2 Full Council is responsible for approving the policy framework and budget. The policy framework comprises those plans and strategies set out in Article 4 of the Constitution.
- B.3 Full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.
- B.4 Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

### Preparation of the Community and Corporate Plans

- B.5 The Head of the Paid Service is responsible for proposing the Community Plan and Corporate Plan to the Cabinet for consideration before its submission to Full Council for approval.

### Preparation of the Best Value Performance Plan (BVPP)

- B.6 The Head of Improvement and Performance is responsible for proposing the BVPP to the Cabinet for consideration before its submission to Full Council for approval.

## Budgeting

### Budget Format

- B.7 The general format of the budget will be approved by Full Council and proposed by the Cabinet on the advice of the Section 151 Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

### Budget Preparation

- B.8 The Section 151 Officer is responsible for ensuring that a revenue budget is prepared on an annual basis and a general revenue plan on a three-yearly basis for consideration by the Cabinet, before submission to Full Council. Full Council may

amend the budget or ask the Cabinet to reconsider it before approving it. The Section 151 Officer also has a responsibility under Section 25 of the Local Government Act 2003 to comment on:

- The robustness of the annual estimates submitted to Council for approval, and
- The adequacy of the proposed financial reserves.

B.9 The Section 151 Officer is responsible for issuing guidance on the general content of the budget as soon as possible following approval by Full Council.

B.10 It is the responsibility of Corporate Management Team to ensure that the budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

### **Budget Monitoring and Control**

B.11 The Section 151 Officer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He/she must arrange for expenditure and income to be controlled and monitored against budget allocations and report to the Cabinet on such regular basis as it may determine.

B.12 It is the responsibility of Directors of Services to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Section 151 Officer. They must report on variances within their own areas. They must also take any action necessary to avoid exceeding their budget allocation and alert the Section 151 Officer of any problems, or potential problems, at the earliest opportunity

### **Resource Allocation**

B.13 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of Full Council's policy framework.

### **Preparation of the Capital Programme**

B.14 The Section 151 Officer is responsible for ensuring that a rolling 5 year Capital Programme is prepared on an annual basis for consideration by the Cabinet before submission to Full Council. Full Council may amend the Capital Programme or ask the Cabinet to reconsider it before approving it.

### **Budget guidelines**

B.15 Guidelines on budget preparation are issued to Members and Directors of Services by the Cabinet following agreement with the Section 151 Officer. The guidelines will take account of:

- Legal requirements
- Medium-term planning prospects
- The Corporate Plan
- Available resources
- Spending pressures
- Best value and other relevant Government guidelines
- Other internal policy documents
- Relevant cross-cutting issues.

## **Maintenance of Reserves**

- B.16 It is the responsibility of the Section 151 Officer to advise Full Council on prudent levels of reserves for the Council in accordance with Section 25 of the Local Government Act 2003.

## **Procedure Note**

- B.17 A procedure note in relation to Regulation B is attached as Appendix B and forms part of the Rules.

## **Regulation C: Risk Management and Control of Resources**

### **Introduction**

- C.1 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant strategic and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- C.2 Regulation 4 of the Accounts and Audit Regulations 2003 requires the Council to be responsible for ensuring that its financial management is adequate and that it has a sound system of internal control which facilitates the effective exercise of its functions including arrangements for the management of risk.

### **Risk Management**

- C.3 The Cabinet is responsible for approving the Council's Risk Management Policy and Strategy, reviewing it on an annual basis and for reviewing the effectiveness of risk management. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.
- C.4 The Cabinet is also responsible for ensuring that proper insurance exists, where appropriate, to mitigate any risks identified.
- C.5 The Section 151 Officer is responsible for preparing the Council's risk management policy statement, for promoting it throughout the Council and for advising the Cabinet on proper insurance cover where appropriate.

### **Internal Control**

- C.6 Internal Control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- C.7 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

- C.8 It is the responsibility of Directors of Services to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

### **Audit Requirements**

- C.9 The Accounts and Audit Regulations 2003 require every local authority to maintain an adequate and effective internal audit.
- C.10 The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.
- C.11 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise, the Inland Revenue and Government offices or personnel working on their behalf, who have statutory rights of access.

### **Preventing Fraud and Corruption**

- C.12 The Section 151 Officer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

### **Assets**

- C.13 Directors of Services must ensure that records and assets are properly maintained and securely held. They must also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place.

### **Treasury Management**

- C.14 The Council has adopted CIPFA's 'Code of Practice for Treasury Management in Local Authorities' (the Code).
- C.15 Full Council is responsible for approving the Treasury Management Policy Statement, recommended by Cabinet, setting out the matters detailed in paragraph 15 of the Code. The Section 151 Officer has delegated responsibility for implementing and monitoring the Statement.
- C.16 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972.
- C.17 All executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with the Code.
- C.18 The Section 151 Officer is responsible for submitting a report to the Cabinet on the proposed treasury management strategy for the coming financial year at, or before, the start of each financial year and, at least once in each financial year, on the activities of the treasury management operation and the exercise of his/her delegated treasury management powers.

**Staffing**

- C.19 Full Council is responsible for determining how officer support for executive and non-executive roles within the Council will be organised.
- C.20 The Chief Executive as Head of Paid Service is responsible for providing overall management to staff, and for ensuring compliance with the Council's employment policies.
- C.21 Directors of Services are responsible for controlling total staff numbers by:
- Advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - Adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
  - The proper use of appointment procedures.

**Procedure Note**

- C.22 A Procedure Note in relation to Regulation C is attached as Appendix C and forms part of the Rules.

**Regulation D: Systems and Procedures****Introduction**

- D.1 Sound systems and procedures are essential to an effective framework of accountability and control.

**General**

- D.2 The Section 151 Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors of Services to the existing financial systems or the establishment of new systems must be approved in advance by the Section 151 Officer. Directors of Services however are responsible for the proper operation of financial processes in their individual departments.
- D.3 Any changes to agreed procedures by Directors of Services to meet their own specific service needs must be agreed in advance with the Section 151 Officer.
- D.4 Directors of Services must ensure that their staff receive relevant financial training that has been approved by the Section 151 Officer.
- D.5 Directors of Services must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Directors of Services must also ensure that their staff are aware of their responsibilities under Data Protection and Freedom of Information legislation.

**Income and Expenditure**

- D.6 It is the responsibility of Directors of Services to ensure that a proper scheme of delegation has been established within their department and that it is operating effectively. The scheme of delegation must identify staff authorised to act on the

Directors of Services' behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority.

It is the responsibility of the Section 151 Officer to develop, administer and keep under review procedures for writing off debts and to seek approval of these by full Council as part of the overall control framework of accountability and control.

It is the responsibility of the Section 151 Officer to report all aged debts over £150,000 to the next available ordinary Council meeting, the timelines for reporting being as follows:

- a) 60 days for those debts with standard payment terms of 0 or 30 days
- b) 90 days for those debts with payment terms of 60 days

regardless of whether or not the debt had been paid in full or in part between the expiry of the 60 or 90 day period (whatever the case may be) and the date of the next available ordinary Council meeting.

### **Payments to Employees and Members**

- D.7 The Section 151 Officer is responsible for making all payments of salaries, wages and allowances to all staff, and for making payments of allowances to Members.

### **Taxation**

- D.8 The Section 151 Officer is responsible for advising Directors of Services, in the light of guidance issued by appropriate bodies and relevant legislation, on all taxation issues that affect the Council.
- D.9 The Section 151 Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving any tax credits and submitting tax returns by their due date.

### **Trading Accounts/Business Units**

- D.10 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of any trading accounts and business units within the Council.

### **Procedure Note**

- D.11 A Procedure Note in relation to Regulation D is attached as Appendix D and forms part of the Rules.

## **Regulation E: External Arrangements**

### **Introduction**

- E.1 The Council provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of the area.

## **Partnerships**

- E.2 The Cabinet is responsible for approving delegations, including frameworks for partnerships, which the Council is involved in. The Cabinet is the focus for forming partnerships with other public, private, voluntary and community sector organisations to address local needs.
- E.3 The Cabinet can delegate functions – including those relating to partnerships – to officers. Those that exist are set out in the Scheme of Delegation within Part 3 of the Council’s Constitution. Where functions are delegated, the Cabinet remains accountable for them to Full Council.
- E.4 Representation of the Council on partnerships and external bodies will be decided in accordance with the Scheme of Delegation.
- E.5 The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the Council.
- E.6 The Section 151 Officer must ensure that the accounting arrangements to be adopted in relation to partnerships and joint ventures are satisfactory. The Chief Executive in consultation with the Section 151 Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. The Section 151 Officer in consultation with the relevant Head of Service must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7 Directors of Services are responsible for ensuring that the Section 151 Officer is consulted on the progress of negotiations and that the appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

## **External Funding**

- E.8 The Cabinet is responsible for approving all applications for external funding unless otherwise provided for within the Council’s external funding strategy.
- E.9 The Section 151 Officer is responsible for the preparation of an external funding protocol which shall be submitted to the Cabinet for approval.
- E.10 The Section 151 Officer has overall responsibility for external funding and is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council’s accounts.
- E.11 The Section 151 Officer also has overall responsibility for ensuring that appropriate records and supporting documentation in relation to any output measures are kept to enable him/her to submit funding claim forms at the relevant times.

## **Work for Third Parties**

- E.12 The Cabinet is responsible for approving the contractual arrangements for any work undertaken for third parties or external bodies unless this is delegated to officers in accordance with the Scheme of Delegation.

**Procedure Note**

E.13 A Procedure Note in relation to Regulation E is attached at Appendix E and forms part of the Rules.



## Appendix A: Financial Procedure Note – Financial Management

### 1.0 Financial Management Standards

#### 1.1 General

All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

#### 1.2 Responsibilities of Section 151 Officer:

To ensure the proper administration of the Council's financial affairs.

To set the financial management standards and to monitor compliance with them.

To ensure that proper professional practices are adhered to and to act as the head of profession in relation to the standards, performance and development of finance staff throughout the Council.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.

To advise upon financial considerations before any agreement is entered into on behalf of the Council.

#### 1.3 Responsibilities of Directors of Services:

To promote the financial management standards set by the Section 151 Officer in their services and to monitor adherence to the standards and practices, liaising as necessary with the Section 151 Officer.

To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

To submit monthly forecasts in line with the Council's budget monitoring arrangements.

To ensure budgetary provision exists for all expenditure incurred.

To seek advice upon financial considerations before any agreement is entered into on behalf of the Council.

### 2.0 Managing Expenditure

#### 2.1 Scheme of virement

Virement is the switching of resources between approved estimates or heads of expenditure. The scheme is intended to enable the Cabinet, Directors of Services and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by Full Council, and therefore to optimise the use of resources. For the purposes of the scheme a budget head is considered to be a line in the approved estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.

##### 2.1.2 Responsibilities of Section 151 Officer:

To administer the scheme of virement within the guidelines set by Full Council.

To notify Directors of Services of changes to the scheme of virement.

### **2.1.3 Responsibilities of Directors of Services:**

Directors of Services are expected to exercise their discretion in managing their budgets responsibly and prudently. For example they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full year effects of decisions made part way through a year, for which they have not identified future resources. Directors of Services must plan to fund such commitments from within their own budgets.

A Director of Services may exercise virement on budgets under his/her control for amounts up to a limit that is notified to them from time to time by the Section 151 Officer.

## **2.2 Treatment of year-end balances**

The rules below cover arrangements for the transfer of resources between accounting years, i.e. a carry forward. For the purposes of this a budget heading is a line in the estimates, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA in its Service expenditure Analysis.

### **2.2.1 Responsibilities of Section 151 Officer:**

- To administer any scheme of carry forward.

### **2.2.2 Responsibilities of Directors of Services:**

To notify the Section 151 Officer of any actual or potential over or underspendings on their service estimates immediately they become evident.

## **3.0 Accounting Policies**

### **3.1 General**

The Section 151 Officer is responsible for the preparation of the Council's Statement of Accounts in accordance with proper practices as set out in the '*Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice*' and the '*Best Value Accounting Code of Practice*' for each financial year ending 31 March.

### **3.2 Responsibilities of Section 151 Officer:**

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year.

### **3.3 Responsibilities of Directors of Services:**

To adhere to the accounting policies and guidelines approved by the Section 151 Officer.

## **4.0 Accounting Records and Returns**

### **4.1 General**

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Council's resources.

### **4.2 Responsibilities of Section 151 Officer:**

To determine the accounting procedures and records for the Council.

To arrange for the compilation of all accounts and accounting records under his/her direction.

To comply with the following principles when allocating accounting duties (these are known as "separation of duties"):

- (a) Separating the duties of providing information about sums due to or from the Council and calculating, checking and recording these sums from the duty of collecting and disbursing them;
- (b) Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2003.

To ensure that all claims for funds, including grants are made by the due date.

To prepare the accounts, have them approved by Full Council and publish the audited accounts in accordance with statutory timetables.

To administer the Council's arrangements for under- and overspendings.

To ensure the proper retention of financial documents in accordance with the requirements set out in the Council's document retention schedule.

### **4.3 Responsibilities of Directors of Services:**

To consult and obtain the approval of the Section 151 Officer before making any changes to accounting records and procedures.

To comply with the principles of "separation of duties" as set out in 4.2.

To maintain adequate records to provide a clear audit trail leading from the source of income or expenditure through to the accounting statements.

To supply information required to enable the statement of accounts to be completed in accordance with any guidelines issued by the Section 151 Officer.

## **5.0 The Annual Statement of Accounts**

### **5.1 General**

The Council has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Governance and Audit Committee is responsible for approving the accounts as a sub-committee of Full Council.

### **5.2 Responsibilities of Section 151 Officer:**

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the SORP and the BVACOP.

To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March.

To draw up a timetable each year for the preparation of the accounts and advise staff and external auditors accordingly.

### **5.3 Responsibilities of Directors of Services:**

To comply with accounting guidance provided by the Section 151 Officer and to supply him/her with information when required.

## Appendix B: Financial Procedure Note- Financial Planning

### 1.0 Performance Plans

#### 1.1 General

Each local authority has a statutory responsibility to publish various performance plans, including best value performance plans, crime reduction strategies, community strategies, etc. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement. The Council is required to publish annually the best value performance plan (BVPP), which summarises its performance and position in relation to best value. The BVPP is a key element in the Council's programme of engaging with the public. External audit is required to report on whether the Council has complied with statutory requirements in respect of the preparation and publication of the BVPP.

#### 1.2 Responsibilities of the Section 151 Officer:

- To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- To contribute to the development of corporate and service targets and objectives and performance information.

#### 1.3 Responsibilities of the Director of Finance and Corporate Services:

- To produce and publish the Best Value Performance Plan which summarises its performance and position in relation to best value.

#### 1.4 Responsibilities of Directors of Services:

- To contribute to the development of performance plans in line with statutory requirements.
- To contribute to the development of corporate and service targets and objectives and performance information.
- To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

### 2.0 Budgeting

#### 2.1 Format of the budget

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### 2.2 Responsibilities of the Section 151 Officer:

- To advise the Cabinet on the format of the budget that is approved by Full Council.

### **2.3 Responsibilities of Directors of Services:**

- To comply with accounting guidance provided by the Section 151 Officer.

## **3.0 Revenue Budget Preparation, Monitoring and Control**

### **3.1 General**

Budget management ensures that once the budget has been approved by Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget (budget holders).

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

### **3.2 Responsibilities of the Section 151 Officer:**

- To establish an appropriate framework of budgetary management and control that ensures that:
  - (a) budget management is exercised within annual cash limit unless Full Council agrees otherwise;
  - (b) each Director of Service has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
  - (c) expenditure is committed only against an approved budget head;
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations;
  - (e) each cost centre has a single named manager, determined by the relevant Director of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure;
  - (f) significant variances from approved budgets are investigated and reported to Members by budget managers regularly.
- To administer the Council's scheme of virement.
- To submit reports to the Cabinet and to Full Council, in consultation with the relevant Director of Service, where a Director of Service is unable to balance expenditure and resources within existing approved budgets under his or her control.
- To prepare and submit reports on the Council's projected income and expenditure compared with the budget on a regular basis.

### 3.3 Responsibilities of Director of Service:

- To maintain budgetary control within their departments, in accordance with the Financial Procedure Rules, and to ensure that all income and expenditure are properly recorded and accounted for.
- To ensure that an accountable budget holder is identified for each item of income and expenditure under the control of the Director of Service (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- To prepare and submit to the Cabinet reports on the service's projected expenditure compared with its budget, in consultation with the portfolio-holder.
- To ensure prior approval by Full Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
  - (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the Council's services.
- To ensure compliance with the scheme of virement.
- To agree with the relevant Director of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Director of Service's level of service activity.

## 4.0 Budgets and Medium-Term Planning

### 4.1 General

The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

A report on new proposals should explain the full financial implications, following consultation with the Section 151 Officer. The Cabinet will decide whether additional revenue funding is made available for any new proposal, subject to Full Council approval or from within virement rules.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of Full Council. Budgets (spending plans) are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for a local authority to budget for a deficit.

Medium-term planning (5 year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the Council is always preparing for events in advance.

## 4.2 Responsibilities of the Section 151 Officer:

- To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by Full Council, and after consultation with the Cabinet and Directors of Services.
- To prepare and submit reports to the Cabinet on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of council tax to be levied.
- To advise on the medium-term implications of spending decisions.
- To encourage the best use of resources and value for money by working with Directors of Services to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- To advise Full Council on Cabinet proposals in accordance with his/her responsibilities under section 151 of the Local Government Act 1972.
- To prepare and maintain a Medium-Term Financial Strategy.
- To undertake the responsibilities contained in Section 25 of the Local Government Act 2003 regarding:
  - (a) the robustness of the annual estimates submitted to Council for approval, and
  - (b) the adequacy of the proposed financial reserves.

## 4.3 Responsibilities of Directors of Services:

- To prepare estimates of income and expenditure, in consultation with the Section 151 Officer, to be submitted to the Cabinet.
- To prepare budgets that are consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Section 151 Officer in accordance with Full Council's general directions.
- To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- In consultation with the Section 151 Officer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet.
- When drawing up draft budget requirements, to have regard to:
  - (a) spending patterns and pressures revealed through the budget monitoring process
  - (b) legal requirements
  - (c) policy requirements as defined by Full Council in the approved policy framework
  - (d) initiatives already under way.

## 5.0 Resource Allocation

### 5.1 General

A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It



is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

## **5.2 Responsibilities of the Section 151 Officer:**

- To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- To assist in the allocation of resources to budget managers.

## **5.3. Responsibilities of Directors of Services**

- To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## **6.0 Capital Programmes**

### **6.1 General**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

The Government places strict controls on the financing capacity of a local authority. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

### **6.2 Responsibilities of the Section 151 Officer:**

- To prepare 5-year rolling capital estimates jointly with Directors of Services and the Chief Executive and to report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to Full Council.
- To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques and the Capital Protocol. The definition of 'capital' will be determined by the Section 151 Officer, having regard to government regulations and accounting requirements.
- To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.
- To calculate prudential indicators to be used in connection with the Capital Programme.

### **6.3 Responsibilities of Directors of Services:**

- To comply with guidance for example the Capital Protocol concerning capital schemes and controls issued by the Section 151 Officer.

- To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Section 151 Officer.
- To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Section 151 Officer .
- To ensure that adequate records are maintained for all capital contracts.
- To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Section 151 Officer, where required.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, of any variation in contract costs greater than the approved limits.
- To prepare and submit reports, jointly with the Section 151 Officer, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than the specified amount.
- To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval, and if applicable, approval of the scheme through the capital programme.
- To consult with the Section 151 Officer and to seek Cabinet and where appropriate Full Council approval where the Director of Service proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.

## **7.0 Maintenance of Reserves**

### **7.1 General**

The Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the Council to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **7.2 Responsibilities of the Section 151 Officer:**

- To advise the Cabinet and/or Full Council on prudent levels of reserves for the Council, and to take account of the advice of the external auditor in this matter.
- To comment on the adequacy of the proposed financial reserves in accordance with Section 25 of the Local Government Act 2003.

### **7.3 Responsibilities of Directors of Services:**

- To ensure that resources are used only for the purposes for which they were intended
- To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local performance indicators.

## Appendix C: Financial Procedure Note: Risk Management and Control of Resources

### 1.0 Risk Management

#### 1.1 General

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Cabinet to approve the Council's Risk Management Policy and Strategy, review it on an annual basis and to promote a culture of risk management awareness throughout the Council. The Cabinet is also responsible for designating a Member to act as a 'risk management champion' to support the integration of risk management into the culture of the Council.

#### 1.2 Responsibilities of the Section 151 Officer:

- To prepare and promote the Council's risk management policy statement.
- To chair any officer working group which has responsibility for risk management.
- To develop risk management controls, including the maintenance of appropriate risk registers, in conjunction with other Directors of Services.
- In conjunction with Directors of Services, to ensure that all staff are given training and guidance as to how to manage risks in their areas of work.
- To include all appropriate employees of the Council in a suitable fidelity guarantee insurance.
- To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

#### 1.3 Responsibilities of Directors of Services:

- To ensure that risk is managed effectively in each service area under their control.
- To notify the Section 151 Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Council's insurers.
- To take responsibility for risk management, having regard to advice from the Section 151 Officer and other specialist officers (eg crime prevention, fire prevention, health and safety).
- To ensure that there are regular reviews of risk within their departments, and that all their staff are given training and guidance as to how to manage risk in their areas of work.
- To maintain operational risk registers for all service areas under their control.
- To notify the Corporate Governance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

- To consult the Section 151 Officer and the Head of Legal Services on the terms of any indemnity that the Council is requested to give.
- To ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## **2.0 Internal Controls**

### **2.1. General**

The Council is a complex organisation which requires internal controls to manage and monitor progress towards strategic objectives. The Council has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations. The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- efficient and effective operations
- reliable financial information and reporting
- compliance with laws and regulations
- risk management.

### **2.2 Responsibilities of the Section 151 Officer:**

- To assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **2.3 Responsibilities of Directors of Services:**

- To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- To review existing controls in the light of changes affecting the Council and to establish and implement new ones in line with guidance from the Section 151 Officer. This includes formally removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- To ensure staff have a clear understanding of the consequences of lack of control.

## **3.0 Audit Requirements**

### **3.1 Internal audit**

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 1996 (SI 1996/590), regulation 5, more specifically require that

a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.

Regulation 4 of the Accounts and Audit Regulations 2003 states that “the relevant body shall be responsible for ensuring that the financial management of the body is adequate and that the body has a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes arrangements for the management of risk.”

Accordingly, internal audit is an independent and objective appraisal function established by the Council for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. In Thanet the internal audit function is currently provided under a partnership agreement with Dover and Shepway District Councils.

### **3.2 Responsibilities of the Section 151 Officer:**

- To ensure that internal auditors have the authority to:
  - (a) access the Council’s premises at reasonable times
  - (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the Council to account for cash, stores or any other Council asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Chief Executive, the Cabinet and any committee which has responsibility for audit.
- To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **3.3 Responsibilities of Directors of Services:**

- To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- To consider and respond promptly to recommendations in audit reports.
- To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- To notify the Section 151 Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council’s property or resources. Pending investigation and reporting, the Director of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Section 151 Officer prior to implementation.

## **4.0 External Audit**

### **4.1 General**

The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:

- the financial aspects of the audited body's corporate governance arrangements
- the audited body's financial statements
- aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.

The Council's accounts are scrutinised by external auditors, who must be satisfied that the Statement of Accounts 'presents fairly' the financial position of the Council and its income and expenditure for the year in question and complies with the legal requirements.

### **4.2 Responsibilities of the Section 151 Officer:**

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- To ensure there is effective liaison between external and internal audit.
- To work with the external auditor and advise Full Council, Cabinet and Directors of Services on their responsibilities in relation to external audit.

### **4.3 Responsibilities of Directors of Services:**

- To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- To ensure that all records and systems are up to date and available for inspection.

## **5.0 Preventing Fraud and Corruption**

### **5.1 General**

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council. The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and will take reasonable actions to prevent fraud and corruption.

## **5.2 Responsibilities of the Section 151 Officer:**

- To develop and maintain an anti-fraud and anti-corruption policy.
- To maintain adequate and effective internal control arrangements.
- To ensure that all confirmed irregularities are reported to the Head of Paid Service, the Cabinet and any committee with responsibility for audit.

## **5.3 Responsibilities of Directors of Services:**

- To ensure that all suspected irregularities are reported to the Section 151 Officer.
- To instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- To ensure that where financial impropriety is discovered, the Section 151 Officer is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in to determine with the Crown Prosecution Service whether any prosecution will take place.
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## **5.4 Responsibilities of Monitoring Officer:**

- To maintain a register of interests, gifts and hospitality.

# **6.0 Assets**

## **6.1 Security**

The Council holds assets in the form of land and property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

## **6.2 Responsibilities of the Section 151 Officer:**

- To ensure that an asset register is maintained in accordance with the SORP and other good practice for all fixed assets. The function of the asset register is to provide the Council with information about fixed assets so that they are:
  - (a) safeguarded
  - (b) used efficiently and effectively
  - (c) adequately maintained.
- To receive the information required for accounting, costing and financial records from each Director of Service.
- To ensure that assets are valued in accordance with the "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice"(CIPFA/LASAAC).

### 6.3 Responsibilities of Directors of Services:

- The Director of Regeneration Services shall maintain a property database in a form approved by the Section 151 Officer for all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- The Director of Regeneration Services must arrange for this database to be physically checked on an annual basis to ensure that the records are up to date.
- To ensure that lessees and other prospective occupiers of council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Director of Regeneration Services in consultation with the Section 151 Officer, has been established as appropriate.
- To ensure the proper security of all buildings and other assets under their control.
- Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a report by the Director of Service, incorporating the Section 151 Officer's comments.
- To pass title deeds to the appropriate Director of Service who is responsible for custody of all title deeds.
- To ensure that no Council asset is subject to personal use by an employee without proper authority.
- To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.
- To ensure that the department maintains a register of moveable assets in accordance with arrangements defined by the Section 151 Officer.
- To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- To consult the Section 151 Officer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- To ensure cash holdings on premises are kept to a minimum.
- To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Section 151 Officer as soon as possible.
- Assets should normally be disposed of by competitive tender or public auction, unless the agreement of the Section 151 Officer is obtained.
- To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Section 151 Officer .
- To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way.
- To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £5,000 in value.
- To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Council.
- To make sure that property is only used in the course of the Council's business, unless the Director of Regeneration Services has given permission otherwise.



- To make arrangements for the care and custody of stocks and stores in the department.
- To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- To investigate and remove from the Council's records (ie write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of £5,000.

## **7.0 Intangible Assets**

### **7.1 General**

Intangible assets is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee. Various Acts of Parliament cover different types of intellectual property.

Certain activities undertaken within the Council may give rise to items that may be patentable, for example, software development. These items are collectively known as intangible assets.

### **7.2 Responsibilities of the Section 151 Officer:**

- To develop and disseminate good practice through the Council's intellectual property procedures.

### **7.3 Responsibilities of Directors of Services:**

- To ensure that controls are in place to ensure that staff do not carry out private work in council time and that staff are aware of an employer's rights with regard to intellectual property.

## **8.0 Asset Disposal**

### **8.1 General**

It would be uneconomic and inefficient for the cost of holding assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the Council.

### **8.2 Responsibilities of the Section 151 Officer:**

- To issue guidance from time to time on the practice for the disposal of assets.
- To ensure appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

### **8.3 Responsibilities of Directors of Services:**

- To seek advice when appropriate from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.
- To ensure that income received for the disposal of an asset is properly banked and accounted for.

- To advise the Corporate Governance Officer so that the disposed asset can be deleted from the insurance schedule.

## **9.0 Treasury Management**

### **9.1 General**

Many millions of pounds pass through the Council's books each year. To ensure proper control the Codes of Practice aim to provide assurances that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's money. The Council has adopted the CIPFA "Code of Practice on Treasury Management".

### **9.2 Responsibilities of Section 151 Officer – Treasury Management and Banking:**

- To arrange the borrowing and investments of the Council in such a manner as to comply with the CIPFA "Code of Practice on Treasury Management" and the Council's Treasury Management policy statement and strategy, CIPFA's Standard of Professional Practice on Treasury Management and the Council's agreed Treasury Management practices.
- To report to Council annually on treasury management policies, practices and activities, including, as a minimum:
  - (a) A report for the previous year,
  - (b) A strategy and plan for the forthcoming year, and
  - (c) A mid-year review.

To open, operate and close such bank accounts as are considered necessary.

### **9.3 Responsibilities of Directors of Services – Treasury Management and Banking:**

- To follow the instructions on banking issued by the Section 151 Officer .

### **9.4 Responsibilities of Section 151 Officer – Investments and Borrowing:**

- To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Full Council.
- To ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Director of Services.
- To effect all borrowings in the name of the Council.
- To act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

### **9.5 Responsibilities of Directors of Services – Investments and Borrowing:**

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of Full Council, following consultation with the Section 151 Officer .

### **9.6 Responsibilities of Directors of Services– Trust Funds and Funds Held for Third Parties:**

- To arrange for all Trust Funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Section 151 Officer unless the deed otherwise provides.

- To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Section 151 Officer , and to maintain written records of all transactions.
- To ensure that Trust Funds are operated within any relevant legislation and the specific requirements for each trust.

#### **9.7 Responsibilities of the Section 151 Officer – Imprest Accounts:**

- To provide employees of the Council with cash or bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Expenditure should not exceed the prescribed amount.
- To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- To reimburse imprest holders as often as necessary to restore the imprests, but normally less than monthly.

#### **9.8 Responsibilities of Directors of Services – Imprest Accounts:**

- To ensure that employees operating an imprest account:
  - (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained.
  - (b) make adequate arrangements for the safe custody of the account.
  - (c) produce upon demand the cash and all vouchers to the total value of the imprest amount.
  - (d) record transactions promptly.
  - (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder.
  - (f) provide the Section 151 Officer with a certificate of the value of the account held at 31 March each year.
  - (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made.
  - (h) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Section 151 Officer for the amount advanced to him or her.

## **10.0 Staffing**

### **10.1 General**

In order to provide the highest level of service, it is crucial that the Council recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level. The statutory posts of Head of Paid Service, Monitoring Officer and Section 151 Officer must be established within the Council.

#### **10.1 Responsibilities of the Chief Executive:**

- To provide overall management to staff.

**10.3 Responsibilities of the: Section 151 Officer:**

- To ensure that budget provision exists for all existing and new employees.

**10.4 Responsibilities of Directors of Services:**

- To produce an annual staffing budget.
- To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- To ensure that the Chief Executive and the Section 151 Officer are immediately informed if the staffing budget is likely to be materially over or underspent.
- To adhere to the Authority's approved Human Resources policies and practices.
- To ensure that all records relating to sums payable to employees as remuneration or allowances are authorised and to provide specimen signatures to the Section 151 Officer of all officers to whom this responsibility is delegated.

## Appendix D: Financial Procedure Note – Financial Systems and Procedures

### 1.0 Systems and Procedures

#### 1.1 General

Departments have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Section 151 Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.

#### 1.2 Responsibilities of the Section 151 Officer:

- To make arrangements for the proper administration of the Council's financial affairs, including to:
  - (a) issue advice, guidance and procedures for officers and others acting on the Council's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the Council's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems.

#### 1.3 Responsibilities of Directors of Services:

- To ensure that accounting records are properly maintained and held securely.
- To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Section 151 Officer .
- To ensure that a complete audit trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- To incorporate appropriate controls to ensure that, where relevant:
  - (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.

- To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- To ensure that systems are documented and staff trained in operations.
- To consult with the Section 151 Officer before changing any existing system or introducing new systems.
- To establish a scheme of delegation identifying officers authorised to act upon the Directors of Services' behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- To supply lists of authorised officers, with specimen signatures and delegated limits, to the Section 151 Officer, together with any subsequent variations.
- To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- To ensure that relevant standards and guidelines for computer systems issued by the Director of Service are observed.
- To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc.
- To ensure that staff do not divulge their password and do not misuse any computer system. Officers who misuse computer systems may be judged guilty of gross misconduct and may be disciplined.
- To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
  - (a) only software legally acquired and installed by the Council is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## **2.0 Income**

### **2.1 General**

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services

as this improves the Council's cashflow and also avoids the time and cost of administering debt recovery.

## **2.2 Responsibilities of the Section 151 Officer:**

- To agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection.
- To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- To have the power to write off bad debts not exceeding £10,000, to write off bad debts between £10,001 and £20,000 in consultation with the Cabinet Portfolio Holder for Finance and Corporate Resources and to submit all bad debts exceeding £20,000 to the Cabinet for write off.
- To ensure that appropriate accounting adjustments are made following write-off action.

## **2.3 Responsibilities of Directors of Service:**

- To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- Except where charges are set by statute, to seek Cabinet approval to any new external charges and revisions to existing ones in consultation with the Section 151 Officer.
- To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- To issue official receipts or to maintain other documentation for income collection.
- To ensure that there are secure and appropriate controls in place for opening post which may contain payments, so that all income due to the Council is collected and properly accounted for.
- To hold securely receipts, tickets and other records of income for the appropriate period.
- To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- To ensure income is not used to cash personal cheques or other payments.

- To supply the Section 151 Officer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Section 151 Officer to record correctly the sums due to the Council and to ensure accounts are sent out promptly. To do this, Directors of Services should use established performance management systems to monitor recovery of income and flag up areas of concern to the Section 151 Officer. Directors of Services have a responsibility to assist the Section 151 Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf. Only up to approved levels of cash can be held on the premises.
- To keep a record of every transfer of money between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy.
- To recommend to the Section 151 Officer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- To notify the Section 151 Officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Section 151 Officer.

### **3.0 Ordering and Paying for Work, Goods and Services**

#### **3.1 General**

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Local authorities have a statutory duty to achieve best value in part through economy and efficiency. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Procurement Code of Practice on tenders and contracts.

Every officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.

Official orders must be in a form approved by the Section 151 Officer. Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Section 151 Officer.

Apart from petty cash and other payments from advance accounts, the normal method of payment from the Council shall be by cheque or other instrument or approved method, drawn on the Council's bank accounts by the Section 151 Officer. The use of direct debit shall require the prior agreement of the Section 151 Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.



**3.2 Responsibilities of the Section 151 Officer:**

- To ensure that all the Council's financial systems and procedures are sound and properly administered.
- To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- To approve the form of official orders and associated terms and conditions.
- To notify Directors of Services from time to time of any exemptions to the need for placing orders.
- To make payments from the Council's funds on the Director of Service's authorisation that the expenditure has been duly incurred in accordance with financial regulations.
- To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- To make payments to contractors on the certificate of the appropriate Head of Service, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- To provide advice and encouragement on making payments by the most economical means.
- To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.

**3.3 Responsibilities of Directors of Services:**

- To adhere to the Council's Contract Standing Orders Standing Orders and the Procurement Code of Practice
- To ensure that unique pre-numbered official orders are used for all goods and services, other than for exceptions specified by the Section 151 Officer.
- To ensure that orders are only used for goods and services provided to the department. Individuals must not use official orders to obtain goods or services for their private use.
- To ensure that official orders are raised for goods and services supplied to the Council at the time of order and not issued retrospectively.
- To ensure that only those staff authorised by him/her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary.
- To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out

by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

- To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
  - (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations or contracts and discounts have been taken where available
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that appropriate entries will be made in accounting records.
- To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Section 151 Officer.
- To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice. Any instances of duplicate payments should be reported to the Section 151 Officer.
- To encourage suppliers of goods and services to receive payment by the most economical means for the Council. It is essential, however, that payments made by direct debit have the prior approval of the Section 151 Officer.
- To ensure that the department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice principles and guidelines set out in the Council's Procurement Code of Practice.
- To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Section 151 Officer. This is because of the potential impact on the Council's borrowing powers, to protect the Council against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- To notify the Section 151 Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the Final Accounts timetable produced by the Section 151 Officer.
- With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Financial Services

the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

- To notify the Section 151 Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Council's document retention policies.

#### **4.0 Payments to Employees and Members**

##### **4.1 General**

Staff costs are the largest item of expenditure for most local authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Council and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by Full Council.

##### **4.2 Responsibilities of the Section 151 Officer:**

- To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him/ her, on the due date.
- To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- To make arrangements for payment of all travel and subsistence claims or financial loss allowance.
- To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- To provide advice and encouragement to secure payment of salaries and wages by the most economical means.
- To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- To publish details of allowances paid to Members in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003.

##### **4.3 Responsibilities of Directors of Services:**

- To ensure appointments are made in accordance with the regulations of the Council and approved establishments, grades and scale of pay and that adequate budget provision is available.
- To notify the Section 151 Officer of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Section 151 Officer.

- To ensure that adequate and effective systems and procedures are operated, so that:
  - payments are only authorised to bona fide employees
  - payments are only made where there is a valid entitlement
  - conditions and contracts of employment are correctly applied
  - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- To send an up-to-date list of the names of officers authorised to sign records to the Section 151 Officer, together with specimen signatures. Any payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.
- To ensure that payroll transactions are processed only through the payroll system. Directors of Services should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Section 151 Officer.
- To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Council, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Section 151 Officer is informed where appropriate.
- To ensure that the Section 151 Officer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

#### **4.4 Responsibilities of Members:**

- To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

#### **5.0 Taxation**

##### **5.1 General**

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

##### **5.2 Responsibilities of the Section 151 Officer:**

- To complete all Revenue and Customs returns regarding PAYE.

- To complete a monthly return of VAT inputs and outputs to Revenue and Customs.
- To provide details to Revenue and Customs regarding the Construction Industry Tax deduction scheme.
- To maintain up-to-date guidance for Council employees on taxation issues in the accounting manual and the tax manual.
- To review the Council's VAT partial exemption status on at least an annual basis.

### **5.3 Responsibilities of Directors of Services:**

- To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with Revenue and Customs regulations.
- To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax deduction requirements.
- To ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- To follow the guidance on taxation issued by the Section 151 Officer in the Council's accounting manual and VAT manual.

## **6.0 Trading Accounts and Business Units**

### **6.1 General**

Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

### **6.2 Responsibilities of the Section 151 Officer:**

- To advise on the establishment and operation of trading accounts and business units.

### **6.3 Responsibilities of Directors of Services:**

- To consult with the Section 151 Officer where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the Council. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.

- To ensure that each business unit prepares an annual business plan.

## Appendix E: Financial Procedure Note – External Arrangements

### 1.0 Partnerships

#### 1.1 General

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

#### The main reasons for entering into a partnership are:

- the desire to find new ways to share risk
- the ability to access new resources
- to provide new and better ways of delivering services
- to forge new relationships.

A partner is defined as either:

- an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project, or
- a body whose nature or status give it a right or obligation to support the project.

Partners participate in projects by:

- acting as a project deliverer or sponsor, solely or in concert with others
- acting as a project funder or part funder
- being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- to act in good faith at all times and in the best interests of the partnership's aims and objectives
- be open about any conflict of interests that might arise
- to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- to act wherever possible as ambassadors for the project.

#### 1.2 Responsibilities of the Section 151 Officer:

- To advise on effective controls that will ensure that resources are not wasted.
- To advise on the key elements of funding a project. They include:
  - (a) a scheme appraisal for financial viability in both the current and future years
  - (b) risk appraisal and management
  - (c) resourcing, including taxation issues

- (d) audit, security and control requirements
- (e) carry-forward arrangements.
- To ensure that the accounting arrangements are satisfactory.

### **1.3 Responsibilities of Directors of Services:**

- To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Section 151 Officer.
- To consult with the Section 151 Officer, as necessary, on a scheme's appraisal for financial viability in both the current and future years
- To maintain a register of all contracts and service level agreements entered into with external bodies in accordance with procedures specified by the Section 151 Officer.
- To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Council.
- To ensure that all agreements and arrangements are properly documented.
- To provide appropriate information to the to enable a note to be entered into the Council's statement of accounts concerning material items.
- To ensure that Cabinet approval is sought for all external funding bids.
- To comply with the External Funding Protocol.

## **2.0 External Funding**

### **2.1 General**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered and monitored to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the Single Regeneration Budget provide additional resources to enable the Council to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Council's Corporate Plan.

### **2.2 Responsibilities of the Section 151 Officer:**

- Maintain and review of the Council's External Funding Protocol.
- To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.
- Where he/she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that audit requirements are met.



### **2.3 Responsibilities of Directors of Services:**

- To consult with the Section 151 Officer on any application for external funding prior to its submission to Cabinet in accordance with the Council's external funding strategy.
- Where he/she is specifically responsible for submitting grant claims, to ensure that all claims for funds are made by the due date.
- To ensure that the project progresses in accordance with the agreed project plan, conditions and project outcomes and that all expenditure is properly incurred and recorded.
- To maintain adequate supporting documentation to enable claims for funding to be fully evidenced and maximised.
- To comply with the External Funding Protocol.

## **3.0 Work for Third Parties**

### **3.1 General**

Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is not ultra vires.

### **3.2 Responsibilities of Section 151 Officer:**

- To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **3.3 Responsibilities of Directors of Services:**

- To consult with the Section 151 Officer prior to obtaining the approval of the Cabinet before any negotiations are concluded in regard to third parties arrangements.
- To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Section 151 Officer .
- To ensure that appropriate insurance arrangements are made.
- To ensure that the Council is not put at risk from any bad debts.
- To ensure that no contract is subsidised by the Council without the approval of the Cabinet.
- To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- To ensure that the department/unit has the appropriate expertise to undertake the contract.
- To ensure that such contracts do not impact adversely upon the services provided for the Council.
- To ensure that all contracts are properly documented.
- To provide appropriate information to the Section 151 Officer to enable a note to be entered into the Statement of Accounts.

## Contract Standing Orders

### 1.0 Introduction – Purpose of the Contract Standing Orders

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Standing Orders is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- i. Furthers its corporate objectives
  - ii. Uses its resources efficiently
  - iii. Purchases quality goods, services and works
  - iv. Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings.
- 1.3 These Contract Standing Orders are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.4 These Contract Standing Orders do not provide guidelines on what is the best way to purchase works, supplies (goods) and services. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Purchasing Guide that accompanies this document.

### 2.0 General Principles – Application and Compliance with Contract Standing Orders

- 2.1 These Contract Standing Orders apply to the purchase by or on behalf of the Council of works, supplies (goods) and services.
- 2.2 These Contract Standing Orders apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in
- 2.3. These Contract Standing Orders do not apply to:
- i. Employment contracts
  - ii. Contracts relating solely to the purchase or sale of interests in land
  - iii. Contracts for retention of legal counsel and the appointment of expert witnesses in legal proceedings
  - iv. Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.
  - v. Post Entry Training Schemes
  - vi. When, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the goods, services or works may be provided only by a particular service provider.

### **3.0 General Principles Applying to All Contracts**

- 3.1 There should be written evidence of all purchases.
- 3.2 Standard contract clauses shall be used in all contracts of a value of £10,000 or more. The standard contract clauses are issued by Legal Services and can be found on the intranet.
- 3.3 As a minimum, all contracts of a value of £10,000 or more shall include clauses which set out:
  - 3.3.1 The works, supplies (goods), services, material, matters or things to be carried out or supplied
  - 3.3.2 The time within which the contract is to be performed
  - 3.3.3 Quality requirements and/or standards which must be met
  - 3.3.4 Requirements on the contractor to hold and maintain appropriate insurance
  - 3.3.5 What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
  - 3.3.6 Requirements on the contractor to comply with all relevant equalities and health and safety legislation
  - 3.3.7 That the Council shall be entitled to cancel the contract and recover losses in the event that the contractor does anything improper to influence the Council to give the contractor any contract or commits an offence under the Prevention of Corruption Acts 1889 to 1916 or s117(2) Local Government Act 1972.
- 3.4 Written contracts shall not include non-commercial terms unless these are necessary to achieve best value for the Council. In this context, “non commercial” means requirements unrelated to the actual performance of the contract.
- 3.5 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council’s Purchasing Guide.
- 3.6 All contracts of a value of £10,000 or more or which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file held by the responsible officer.

### **4.0 Regulatory Context**

- 4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:
  - 4.1.1 All relevant statutory provisions
  - 4.1.2 The relevant EU Rules and EC Treaty Principles which are defined in the Council’s Purchasing Guide
  - 4.1.3 The Council’s Constitution including these Contract Standing Orders, the Council’s Financial Procedure Rules and Scheme of Delegation
  - 4.1.4 The Council’s Purchasing Guide and other policies and procedures of the Council as appropriate.

- 4.2 In the event of conflict between the above, the EU Rules will take precedence, followed by UK legislation, then the Council's Constitution, the Council's Purchasing Guide and guidelines, policies and procedures.

**5.0 Responsibilities of Senior Managers, Service Managers and Responsible Officers**

- 5.1 Each Senior Manager shall have overall responsibility for the purchasing undertaken by his/her Department.

- 5.2 Each Service Manager shall be responsible for the purchasing undertaken by his or her service and shall

5.2.1 be accountable to the Senior Manager for the performance of his/her duties in relation to purchasing

5.2.2 comply with the Council's decision making processes including, where appropriate, implementing and operating a Scheme of Delegation

5.2.3 appoint a Responsible Officer in writing who shall be an authorised signatory

5.2.4 take immediate action in the event of breach of these Contract Standing Orders.

- 5.3 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) or services on behalf of the Council.

- 5.4 A Responsible Officer's duties in respect of purchasing are to ensure:

5.4.1 compliance with all Regulatory Provisions and integrity of the tender process

5.4.2 compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest and confidentiality undertakings of those involved in procurement procedures affecting any purchasing process

5.4.3 that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used

5.4.4 the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costing and cost savings

5.4.5 compliance with the Council's decision making processes

5.4.6 that all contracts of a value of £75,000 or more are included on the Council's Contract Register

5.4.7 that proper records of all contract award procedures, waivers, exemptions and extensions are maintained, with separate files for each purchase of a value of £75,000 or more

5.4.8 that value for money is achieved

5.4.9 that adequate and appropriate security (such as a bond or guarantee) is taken to protect the Council in the event of non-performance.

- 5.5 In considering how best to procure works, supplies and services, Senior Managers, Service Managers and/or Responsible Officers (as appropriate in the context), shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and e-procurement/purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.
- 5.6 The Responsible Officer, if procuring services under the Public Contracts Regulations 2006, has obligations under the “Public Services (Social Value) Act 2012” namely “a duty to consider” at the pre-procurement planning stage, the following considerations:
- 5.6.1 how what is proposed to be procured might improve the economic, social and environmental well-being of the “relevant” local area.
- 5.6.2 how in conducting a procurement process it might act with a view to securing that improvement and whether to undertake a consultation with stakeholders on these matters.
- 5.7 It is a disciplinary offence to fail to comply with these Contract Standing Orders and the Council’s Purchasing Guide. All employees have a duty to report breaches of Contract Standing Orders to the Financial Services Manager and Deputy Section 151 Officer or the Monitoring Officer.
- 5.8 Any officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services must refer to the Council’s Whistleblowing Code which can be found on the intranet and follow the guidance contained within.

## **6.0 Scheme of Delegation**

- 6.1 Council purchasing may only be undertaken by officers with the appropriate delegated authority to carry out such tasks as set out in the Council’s Scheme of Delegation. Officers with delegated authority may only delegate to other officers who have the appropriate skills and knowledge for the task and such delegation shall be recorded in writing by the officer delegating the task and notified to the relevant Service Manager.
- 6.2 Each Service Manager shall inform officers, where appropriate, of the extent of any delegated authority and applicable financial thresholds.

## **7.0 Financial Thresholds and Procedures**

- 7.1 The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values.
- 7.2 There is a general presumption in favour of competition. Wherever possible contract opportunities should be advertised by way of a public notice and/or the Council’s and South East Business Portal. The Council must consider the potential effect of a contract on interstate trade (at a European level). If a contract may be of interest to contractors from other member states then this may result in a need to advertise in a manner which ensures that potential contractors from other member states are aware of the opportunity, even for small value contracts or contracts under the EU Threshold levels outlined below.
- 7.3 The public notice referred to at 7.2 may take the form of a notice or advertisement in an electronic or paper format, on an easily accessible website or other electronic media and/or in the press, trade journals or Official Journal of the European Union (“OJEU”) (as appropriate). The Responsible Officer may choose to place one or more public notices in different media.

#### 7.4 Table setting out financial thresholds and procedures

Total value £	Type of contract	Procedure to be used
1,000 to 9,999	Works, supplies and services	At least one quote in advance – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
10,000 to 74,999	Works, supplies and services	At least three written quotes in advance. – Consideration to be given to suitably qualified Thanet Supplier/s, if available.
75,000 to 173,934**	Works, supplies and services	At least three written tenders in advance, following advertisement by public notice
173,934** plus  <b>**EU Threshold for supplies and services</b>	Supplies and services	EU Rules apply – full competitive process following advertisement in the OJ for supplies and Part A* services.  For Part B* services reduced requirements apply under the EU Rules but there is a presumption in favour of advertising and a competitive process
173,934 to 4,348,350**	Works	Full competitive process with tenders following advertisement by public notice
4,348,350**  <b>**EU Threshold for works</b>	Works	EU Rules apply – full competitive process with tenders following OJ advertisement

\* For the purposes of the EU Rules services are divided into two types and the EU Rules apply to a different degree. Responsible Officers should act cautiously and seek advice when considering the procedure to be used and application of the EU Rules to services contracts.

\*\* **or relevant threshold in force at the time under the EU Rules.**

7.5 Where contracts are of a type and value that mean the EU Rules apply to them then there are four main types of EU procedures available. These are the open, restricted, competitive dialogue and competitive negotiated procedures. Care must be taken to ensure that the correct and most appropriate procedure is used and assistance on the choice and use of EU procedure should be sought from Legal Services and process progressed via the Procurement and Contracts Unit.

#### 8.0 Financial Thresholds and Processes Applying to Approval and Execution of Contracts

8.1 For contracts over the relevant EU threshold (in force at the time), the choice of purchasing procedure to be used and the decision to proceed to advertisement must be authorised in writing by the relevant Service Manager in consultation with the Corporate and Regulatory Services Manager in advance.

- 8.2 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contract Standing Orders ensure, in particular, that:
- 8.2.1 the appropriate approvals have been obtained to authorise that decision; and
  - 8.2.2 where appropriate, a standstill period complying with the EU Rules is incorporated into the final award process.
- 8.3 Any contracts valued at £75,000 or above shall be executed as a deed under the Council's common seal. Officers with appropriate delegated authority may sign all other contracts. £10,000 shall be the threshold for the purposes of Regulation 8 of the Local Authority (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001.
- 8.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Shared Services Director for East Kent Services and Corporate and Regulatory Services Manager and Monitoring Officer.

## **9.0 Calculating the Contract Value**

- 9.1 The starting point for calculating the contract value for the purposes of these Contract Standing Orders is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options).
- 9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of the EU Rules and/or these Contract Standing Orders.
- 9.3 The EU Rules can cover contracts, which are below the stated EU threshold, where they constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the EU Rules where they envisage that they may require to make such purchases.

## **10.0 Principles Underlying Tendering Processes and Tender Evaluation**

- 10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:
- 10.1.1 Sufficient time is given to plan and run the process
  - 10.1.2 Equal opportunity and equal treatment
  - 10.1.3 Openness and transparency
  - 10.1.4 Probity
  - 10.1.5 Outcomes that deliver sustainability, efficiency and cost savings (where appropriate).

## **11.0 Submission and Opening of Tenders**

- 11.1 An Invitation to Tender shall be issued by the Council for all contracts over £75,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 11.2 Any tenders received (other than those received electronically, to which 11.3 shall apply) shall be:
- 11.2.1 addressed to the Committee Services Manager

- 11.2.2 in a sealed envelope marked "Tender" followed by the subject matter to which it relates
- 11.2.3 kept in a locked cabinet by Democratic Services
- 11.2.4 retained unopened until the date and time specified for its opening.
- 11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:
  - 11.3.1 addressed to the e-mail address as notified in the Invitation to Tender
  - 11.3.2 in the format specified in the Invitation to Tender
  - 11.3.3 stored in a secure mailbox, which requires a code or other appropriate security measure, to open it
  - 11.3.4 retained unopened until the date and time specified for its opening.
- 11.4 No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the relevant Service Manager is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply and the other tenders have not been opened.
- 11.5 Where Tenders are expected to have a value in excess of £75,000, invitations to the opening of these tenders will be sent to the appropriate Portfolio Holder or another Cabinet Member and the appropriate Shadow Portfolio Holder or another Shadow Cabinet Member, a Procurement Officer, one Responsible Officer nominated by the relevant Service Manager and a Democratic Services Officer to undertake the completion of the Record of Receipt of Tender Document of tenders received including names and addresses and the date and time of opening. In circumstances where both Portfolio/Cabinet member and/or, both Shadow Portfolio/Cabinet members are unable to attend, opening of tenders can and should be undertaken in presence of officers and at least one substitute Member to ensure procurement programme is maintained
- 11.6 The tender opening process is set out in detail at Appendix 1 to these contract standing orders.

## **12.0 Evaluation of Quotes and Tenders**

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenders.
- 12.2 Tenders subject to the EU Rules shall be evaluated in accordance with the EU Rules.
- 12.3 Save in exceptional circumstances approved in advance by the relevant Service Manager all contracts shall be awarded on the basis of the quote or tender which represents best value for money to the Council and not on the basis of lowest price.

## **13.0 Waivers**

- 13.1 The requirement for the Council to conduct a competitive purchasing process for contracts in excess of £10,000 may be waived in the following circumstances.
  - 13.1.1 For contracts which are not subject to the EU Rules, the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or



- 13.1.2 the circumstances set out in the Public Contract Regulations 2006 Regulation 14 apply (whether or not the contract is of a type which is subject to the application of the EU Rules); or
  - 13.1.3 the contract is awarded under a Purchasing Scheme of a type where a competition has already been undertaken on behalf of the Council; or
  - 13.1.4 at the discretion of the relevant Senior Manager who may proceed in a manner most expedient to the efficient management of the service/Council with reasons recorded in writing.
- 13.2 A Responsible Officer who seeks a waiver of Contract Standing Orders, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contract Standing Orders is set out in the Council's Purchasing Guide.
- 13.3 All waivers from these Contract Standing Orders must be:
- 13.3.1 Fully documented
  - 13.3.2 Subject to a written report in an approved format, available on the intranet, to be submitted in advance to the relevant Senior Manager which shall include reasons for the waiver which demonstrate that the waiver is genuinely required
  - 13.3.3 Subject to approval in advance by the Section 151 Officer who shall record that they have considered the reasons for the waiver and that they are satisfied that the circumstances justifying the waiver are genuinely exceptional. Applications for waivers which are a result of poor contract planning will rarely be considered genuinely exceptional.
  - 13.3.4 Subject to periodic report to Cabinet by Procurement and Contracts Unit and retrospective waivers will also be reported via Governance & Audit Committee
- 13.4 All decisions on waivers must take into account:
- 13.4.1 Probity
  - 13.4.2 Best value/value for money principles.
- 13.5 For contracts subject to the EU Rules, any waiver from the requirement for competition must meet the conditions set out in the EU Rules in addition to the general requirements above.
- 14.0 Extensions to Existing Contracts**
- 14.1 Where extensions to existing contracts are made the extensions must be determined in accordance with the contract terms, for a specified period and made in accordance with the principles set out in the Council's Purchasing Guide.
- 14.2 Any extension must be:
- 14.2.1 Fully documented and notified to the Procurement and Contracts Unit to update Contract Register
  - 14.2.2 Subject to a written report in an approved format to be submitted to the relevant Senior Manager and Section 151 officer, which shall include reasons for the extension which demonstrate that the need for the extension is genuinely exceptional
  - 14.2.3 Subject to approval by the Senior Manager and Section 151 officer, who shall record that they have considered the reasons for the extension and that they

are satisfied that the circumstances justifying the extension are genuinely exceptional

14.3 Any extension must take into account:

14.3.1 Probity

14.3.2 Best value/value for money principles.

14.4 For contracts subject to EU Rules, any extension must meet the conditions set out in the EU Rules in addition to the more general requirements set out above.

## **15.0 Purchasing Schemes**

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Purchasing Guide.

15.2 Responsible Officers must check in advance that

15.2.1 The Council is legally entitled to use the Purchasing Scheme

15.2.2 The purchases to be made do properly fall within the coverage of the Purchasing Scheme

15.2.3 The establishment and operation of each Purchasing Scheme is in compliance with the EU Rules (where they apply) and meets the Council's own requirements.

15.3 A "Purchasing Scheme" may include:

15.3.1 Contractor prequalification lists/select lists

15.3.2 Framework arrangements (including those set up by the Government Procurement Service, Central Buying Consortium, Kent Commercial Services)

15.3.3 Purchasing arrangements set up by central purchasing bodies and commercial organisations

15.3.4 Consortium purchasing

15.3.5 Collaborative working arrangements

15.3.6 Formal agency arrangements

15.3.7 E-procurement/purchasing schemes and methods

15.3.8 Other similar arrangements such as the IDeA Marketplace

15.4 Where a Purchasing Scheme is used then there shall be a whole or partial exemption from the obligations under these Contract Standing Orders in respect of the choice and conduct of procedures to the extent permitted and indicated in the Council's Purchasing Guide.

## **16.0 Review and Changes to these Contract Standing Orders**

16.1 These Contract Standing Orders shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds in Contract Standing Order 7, amended Contract Standing Orders shall be recommended by the Constitutional Review Working Party to Council. The Strategic Procurement Manager will make revisions to the EU Thresholds as applicable and is permitted to undertake such non-material amendments as a result of business restructuring as required from time to time, providing that a report on amendments made is brought to the next available meeting of the Constitutional Review Working Party.

## **17.0 Standard Clauses**

17.1 Each contract shall include standard clauses, or those indicated where applicable dependant on the nature of the contract, on

17.1.1 Anti-Bribery, Fraud and Corruption

17.1.2 Assignment and Sub-Letting

17.1.3 Equal Opportunity

17.1.4 Health and Safety

17.1.5 Freedom of Information

17.1.6 Conflict of Interest

17.1.7 TUPE and workforce matters (where applicable)

17.1.8 Child Protection and Safeguarding Children (where applicable)

17.1.9 Liquidated Damages (where applicable)

17.1.10 Protocol for performance data sharing by contractors (where applicable)

## Appendix 1

**Tender opening**

## Instructions to opening officers

- Present: Appropriate Portfolio Holder or another Cabinet Member if available
- Appropriate Shadow Portfolio Holder or another Shadow Cabinet member
- if available
- One substitute Member if above Members are not available.
- Procurement Officer
- Responsible Officer
- Democratic Services Officer
- Requirements: Unopened tenders
- Record of Declarations of Interest and Confidentiality Undertaking
- Record of Receipt of Tenders Form - summarising tenders opened

**1.0 General**

- 1.1 Officers must avoid placing themselves in a position where there is an actual or potential conflict between their personal and/or 'outside' interests and their duties to the council. The appearance of a conflict of interest must also be avoided. Therefore, before the start of the opening of tenders process, the Democratic Services Officer will establish amongst Officers present whether there are any "known" declarations of interest. The Democratic Services Officer will also advise both Officers and Councillors present of their confidentiality obligations through the Procurement Framework and the Members Code of Conduct. The Procurement Officer, will on being advised of a declaration by an Officer of a potential conflict of interest, take a decision on whether the individual/s should continue or end their participation in the opening process, based on an assessment of the context of their declaration.
- 1.2 Before opening the tenders the Democratic Services Officer shall check with the Service Support Supervisor that the post box was emptied and any tenders collected from Main Reception at the designated time for receipt; and that all tenders received up to that date are in his possession.
- 1.3 All tenders given to the Democratic Services Officer should be properly sealed, dated and timed on receipt and show no signs of being tampered with. Where there is evidence of tampering the tender may still be opened but the Democratic Services Officer shall make a statement to that effect on the Record of Receipt of Tenders Form. If in doubt the Democratic Services Officer should refer the matter immediately to the Service concerned.
- 1.4 The Democratic Services Officer shall ensure prior to opening that each set of tenders to be opened are identifiable as relating to the same scheme. At this stage the Democratic Services Officer should ascertain whether any late tenders have arrived (see Note 2 below).

- 1.5 Tenders should be opened as soon as possible but no earlier than 24 hours after the designated time for receipt and arrangements should be made in advance of that time with both Council Officers and Councillor to facilitate the procedure.
- 1.6 Although it is not the duty of the Democratic Services Officer to analyse the technical content of tenders the officer shall at least take note of any tender qualifications (normally in the form of a letter) and bring them to the attention of the Service concerned. For these purposes it is best to make a brief note on the Record of Receipt of Tenders Form.
- 1.7 The Democratic Services Officer shall not destroy any of the tender envelopes but shall return them to the service who invited the tenders who shall consider their future retention. All envelopes relating to opened late tenders shall be kept.
- 1.8 If due to unusual circumstances a problem arises which is not covered by this code and cannot be resolved by the Democratic Services Officer advice should be immediately sought from the Director of Corporate Resources. .
- 1.9 One copy of the Record of Receipt of Tenders Form is to be kept by the Democratic Services Section and one copy sent to each of the following: the Client Department, Procurement Unit, Legal Services and one copy to be delivered immediately to the Financial Services Manager for budgetary purposes.

## **2.0 Late tenders (see CSO 11.4)**

- 2.1 A late tender is any tender arriving after the designated time on or after the appointed day. In respect of all such tenders the envelopes shall be endorsed "late tender" and shall specify the time and date received together with the signature of the receiving officer.
- 2.2 If any late tenders are received they may only be opened with a view to acceptance if the conditions in contract standing order 11.4 are met, namely, 'no tender received after the time and date specified for its opening shall be accepted or considered by the council unless the relevant Service Manager is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date or time, or other exceptional circumstances apply and the other tenders have not been opened'.
- 2.3 In cases where late tenders are opened a note to that effect shall be made clearly on the Record of Receipt of Tender Form and the envelope in which the tender arrived shall be retained.

**3.0 Tender opening instructions for each tender opened**

Opening officer duties	Second officer duties
<p>Normally Democratic Services Officer</p> <p>Open envelope and remove tender.</p> <p>Read out name and address of contractor as shown on Form of Tender.</p> <p>Check that the Form of Tender is filled in correctly, ie:</p> <ul style="list-style-type: none"> <li>a) Contractor’s name;</li> <li>b) the contract for which he is tendering;</li> <li>c) Tender sum: words and figures agree;</li> <li>d) the Form of Tender is signed and dated by the contractor.</li> </ul> <p>Read out tender sum.</p> <p>Check that amount entered on RRT agrees with tender - if so, initial form of tender in bottom right hand corner and pass documents, envelope and RRT to Second Officer.</p> <p>Repeat process for each tender received.</p>	<p>Normally Responsible Officer or Procurement Officer</p> <p>Check that name and address agrees with RRT Form (See Note A over page)</p> <p>Write down tender sum next to relevant contractor on RRT (see Note B).</p> <p>Pass RRT to Opening Officer.</p> <p>Check that tender sum agrees with that entered on RRT and, if so, initial next to Opening Officer on the Form of Tender and place tender back in envelope.</p> <p>Once all tenders have been dealt with RRT will indicate those contractors (if any) from whom a tender has not been received. In such cases the RRT, shall be clearly endorsed “No Tender Received”.</p>

Once this procedure has been followed, and provided that all officers are satisfied that their duties have been carried out correctly, the RRT should be signed by each officer and endorsed with the date and time at which these procedures were completed. The Councillors present shall also sign the RRT form to confirm their satisfaction with the tender opening procedures. The tender envelopes and a copy of RRT can then be forwarded to the Client Department.

**NOTE A:** In the event that a tender is returned from a firm other than that invited, including a subsidiary or alternative division, the details of the firm and his tender price shall still be entered on the RRT by the Second Officer and endorsed to the effect that this tender was received in addition to those invited.

**NOTE B:** In those circumstances where a contractor is not requested to state a tender sum the RRT shall be endorsed "Tender Received" at stage six above and the remaining procedures amended accordingly.

**NOTE C:** In those cases where the tender did not require an overall price, but rates, both officers and both members shall initial all those pages of the tender on which the contractor has inserted rates or prices.



# 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 whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (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) Councillors will not be involved in the disciplinary action 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**

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.

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

Chief Executive  
Director of Corporate Resources (S.151 Officer)  
Director of Community Services  
Director of Operational Services  
Director of Corporate Governance (Monitoring 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 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 Head of Paid Service and Others**

- 10.1 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 the chief finance officer, head of the authority's paid service or monitoring officer as the case may be.)

### **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 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 (politically restricted posts);
  - (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 authority’s monitoring officer, the authority must approve that dismissal before notice is given to that person.
  - (3) 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 sub-committee.

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, sub-committee 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
    - (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 well-founded.
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 dismissor that 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.

## Part III – Standing Orders relating to Executive Plans, Strategies and Estimates

1. In this Part:

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

“plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.
2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.
3. Before the authority:
  - (a) amends the draft plan or strategy;
  - (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - (c) adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may:
  - (a) submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
  - (b) inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.
5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when:
  - (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

6. Subject to paragraph 10, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year:

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.
8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may:
- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
  - (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.
9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a



precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement,

which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10. Paragraphs 6 to 9 shall not apply in relation to:

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## Part 5 - Codes and Protocols

# Filming and Recording of Council Meetings

## 1.0 Filming and Recording of Council Meetings Media Protocol

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

## 2.0 Who do the rules apply to?

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

## 3.0 The Protocol

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

- 3.5 Those present to the record the meeting should not act in a disruptive manner as this could result in them being excluded from the meeting.
- 3.6 The Chairman of the meeting could use Council Procedure Rules (CPR) 27.3 and 27.4 if you are a Councillor or CPR 28 if you are a member of the public to exclude you from the meeting if you conduct any action or activity which disrupts the conduct of the meeting or impedes other members of the public being able to see, hear or film etc. the proceedings. Examples which may lead to exclusion include:
- moving to areas outside the areas designated for the public without the consent of the Chairman,
  - excessive noise in recording or setting up or re-siting equipment during the debate/discussion, including providing oral commentary on a meeting;
  - intrusive lighting and use of flash photography; and
  - asking for people to repeat statements for the purposes of recording.
  - Providing oral commentary on a meeting.
  - Filming or capturing the image of a member of the public who has expressly objected to being filmed.

#### **4.0 Reasonable Facilities**

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

#### **5.0 Tweeting and Blogging**

- 5.1 This protocol does not prevent councillors from tweeting and blogging at meetings, so they should be able to do so, provided it is not disruptive and does not detract from the proper conduct of the meeting. Further advice on the use of social media can be found in the Social Media Guidance for Councillors contained elsewhere within the Council's constitution.

# Social Media Guidance for Councillors

## 1.0 Introduction

- 1.1 Social media has changed the way communicate. Channels such as Facebook, Twitter and blogs are an easy and fast way to converse and find out what our communities care about. The way that online information is created and owned, and the speed at which it is shared has changed.
- 1.2 The important thing to remember about social media is that it is social; it's about communication. Social media is designed to be shared meaning that it is very easy for people to forward, link to or republish comments with a potentially very wide audience. It has put the transformative power of the printed press into the hands of the people. Now anyone can publish and share their views and engage in conversation with others about those views.
- 1.3 Taking part in social media is now, and will continue to be a major activity in our communities. Local government needs to be involved in order to fulfil its leadership role, understand its communities and remain relevant to its stakeholders. Residents and service users are increasingly expecting a greater say in how things happen in their neighbourhood and are already discussing these issues online via social media. Engaging with these conversations can help to shape policy, support local democracy and improve our relationships and services with the customer at the heart of our decisions.
- 1.4 This guidance is for Councillors who would like to use social media as a tool to share information, open new dialogues with the people in their community and beyond and engage their electorate in productive two-way conversation.

## 2.0 What is social media?

- 2.1 Social media is a blanket term applied to a range of online multimedia tools that are used for creating content and two-way communication. They can be accessed via your smartphone, PC, laptop, tablet or smart TV. All social media accounts are free of charge and can be set up quickly and easily from an Internet page. Although this guide will focus on Facebook and Twitter, some useful examples of social media include:
  - 2.2 Blogs which are like an online diary journal where you can share information. Examples are Wordpress, Blogger, SimpleSite.

**Top tip:**

Share your thoughts and activities, and comment on the issues that mean the most to you. Encourage feedback and create dialogue to help your blog evolve.

- 2.3 Micro blogs allow users to share shorter pieces of information. Twitter is an example of a micro-blog. Short messages which you post on Twitter are called "Tweets" – they are each limited to 140 characters (letters, numbers and spaces). Tweets are not a private means of communication and can be seen by any one who is "following" you.

Twitter also has a message facility where you can send messages directly to other Twitter users. However, all such personally directed messages can also be viewed by all of your other followers. You can even forward other Twitter users' Tweets to your own followers, by using the Re-Tweet function. Tweeting is a good way of promoting local events, live tweeting and to give links to other online content.

**Top tip:**

Follow and be followed. Twitter is a great tool for finding out what is happening, what people think of local and global issues. Listen first and then simply join in the conversation.

- 2.4** Social Networks such as Facebook are like having your own small website which can include pictures and text and can provide information and photos. Typically these sites allow you to update people on what you are doing or thinking through a 'status' update and allow you to talk about who you are, what's important to you, what you have done and your plans. You can invite people to be your 'friends' and also set different levels of access to your account, so some people can see all the information about you or you can make less detail available to others. You can also use Facebook to communicate with groups or individuals. People who find your page, comments or proposals of interest can "like" you, which encourages further use, and is a useful way of taking a straw poll of your ideas.
- 2.5** Linked-IN is a professional equivalent of Facebook. You can provide information about your career history and skills, and people with whom you are "linked" can endorse you for particular skills. This is a handy site for finding expertise and keeping up-to-date with business developments in your ward or area.
- 2.6** Flickr, Vimeo, Instagram and YouTube are examples of platforms for sharing videos and photographs. Don't forget to seek permission before taking photos to upload to, or copying images from these sites. Snapchat is a photo messaging application for photo, video, drawing and text.
- 2.7** Communities of Practice are a way of like minded people joining a community where they can share knowledge and discuss issues relevant to the Community for example the LGA Knowledge Hub.
- 3.0 So what are the benefits to councillors of using social media?**
- Social media will allow you to open new conversations with the people you represent.
  - Increasing numbers of people are using Twitter and Facebook, as their preferred method of communication. If you have a presence on these platforms you have the potential to establish two- way communication with all of them.
  - It's a useful way of finding out what people are talking about locally, their concerns and interests.
  - It's useful for finding out about breaking news, the latest research or publication or the latest policy announcements from political parties.

- It's a good way of making the electorate more aware of the work you do personally.
- Social media allows you to have a conversation with a range of people that you would never be able to physically meet and who do not traditionally seek out their local representatives.
- Social media allows for immediate communication. You can pass on information and receive opinions in minutes. You can forward information from other people equally quickly. "Going Viral" is not necessarily a bad thing, and refers to a mass spreading of a piece of information, potentially around the world.
- Social media is mobile. You can take it around your community, on the train, to an event or meeting.
- You can upload pictures and videos, showing for example your role in local events, area regeneration projects or images of Thanet - a picture tells a thousand words.
- It's free, accounts cost nothing and you probably already have the equipment you need. All you need is time.
- You can receive immediate feedback on your ideas and manifesto to allow you to modify your proposals in line with local thinking.
- Above all, it can be a lot of fun!

#### **4.0 How to use Social Media effectively**

- 4.1 Choose your medium and sign up. This is very straightforward and will take you less than five minutes.
- 4.2 Facebook and Twitter are good places to start. You might want to begin with a trial personal account (rather than calling yourself "Councillor Jones") and experiment with family and friends. Make sure that you understand how people find you and who can access your material.

Remember:

- On Facebook you can control who has access to different parts of your account. You can manage what the world sees and what your "friends" see.
- On Twitter the whole world can see everything you Tweet. Even the messages that you Tweet directly to other people can be viewed by anyone unless you have locked down your account to followers.
- When you are ready to set up your final account, consider the identity you use. The name you give yourself online is important as it allows people to find you. Prefacing your Twitter account with 'Cllr' lets people know exactly who you are and indicates that the Code of Conduct will apply.
- You might want to consider setting up a separate personal and "professional" account - you can talk about the amazing food in the restaurant around the corner to your friends and followers in your informal account, and the plans for a new development to your friends and followers on your professional account. However, many councillors think that some of their personal comments about

food, places they've visited, football matches or TV helps break down perceptions of councillors and proves that they are just like everyone else.

- Make it easy for people to find you online. Many people will start their search for the area that you represent, so make sure you mention your location frequently as this will then be picked up by search engines. You will also want to make sure that your social media account details are on your business cards, posters and flyers.
- On Twitter, sign up to Tweety Hall and other sites where councillors can be found by their electorate.
- Increase your web presence by linking to other people and sites, leave comments on others' posts and encourage others to link with you. The more you are mentioned, the more people will find you.
- Choose your friends on Facebook and who you would like to follow on Twitter carefully. Bear in mind that people know who follows them and will often follow you in return.
  - Find people on Twitter with links to your community, county or region by searching using the 'hashtag'(#) symbol to prefix your search term for example #Ramsgate ,#Margate, #Broadstairs, #Thanet
  - Be disciplined about making time available to write new content and answer your "friends" and "followers"; a regular time each week to update your Facebook status and throughout the day to check Twitter.

Decide on what you are going to talk about and how. This could be:

- Weekly updates of your own activities as a councillor – don't forget your pictures! This works better on Facebook as you can include more detail. Remember a Twitter 'Tweet' is only 140 characters and tends to be more instant and timely.
- Regular updates on council policies and actions of interest to your community.
- Links and re-tweets of other relevant national activities.
- Issues on which you would like feedback from the community.
- Notice of events and public meetings.

**4.3** Remember using social media is all about two-way communication, it's good for providing information to your community, but it's better as a tool to get useful feedback. You will get feedback and you should expect some people to challenge your ideas or enter into a debate with you online. This is part and parcel of social media.

## **5.0 Etiquette and style**

- Keep your communications clear, positive, polite and professional. Plain language helps.
- Many people use abbreviations on Twitter – you'll pick these up as you go along.



- Avoid being ironic or sarcastic, it can be misinterpreted.
- On Facebook, you will need to monitor and, if necessary, censor the contributions that other people make to your site; delete them if they do not match your required standards of behaviour or language. Defamatory and offensive language will be attributed to the publisher as well as the original author and could incur financial liability.
- It is up to you to decide if you want to remove posts that disagree with your political position, however if you do remove them you may be accused of censoring contributions on political grounds.
- On Twitter, you can block people who are habitually offensive or vexatious. Remember however, blocking them only stops them engaging directly with you, their tweets will continue to be public to all of their followers.
- Bear in mind that constituents may find party political point scoring tedious and prefer to hear information about what you are achieving.
- If you don't have anything to say...don't say anything. Even though it's tempting to let your followers know how busy you are they will soon become bored with constant updates on your day without some relevant or interesting information.

## **6.0 Support from the Council**

- 6.1 You do not need the council to set you up with a personal social media account but you should take advantage of any training or guidance provided to help you use it properly.
- 6.2 It's worth remembering that the council is responsible for any information provided on its website and is subject to legal responsibilities. You are personally responsible for the material that you broadcast via your own social media accounts or websites.
- 6.3 Advice will be available to you from a number of council officers. The Monitoring Officer, Committee Services Manager and the Communications Team can offer useful advice.

## **7.0 Social Media and council meetings**

- 7.1 Recently, there has been an increase in interest in the use of Twitter in council meetings. Other than what your constitution or social media policy says, there is no legal reason why you shouldn't use social media from meetings. However, some common sense does need to apply.
- Tweeting on meeting progress and receiving comments from the community can be helpful for transparency and engagement BUT excessive use of Twitter may give people the impression that you are not concentrating on the business in hand or are even relying on guidance from outside the meeting. For that reason, it is probably sensible not to use Twitter during a planning or licensing debate. Committee chairs may want to decide how to address this in their meetings and you should abide by the rules set out in the constitution.

- Remember, you may not need to tweet about the detail of a meeting –TDC’s Full Council meetings are filmed and published on YouTube and the communications team have an “official” twitter feed during the meeting.
- Remember that you should not tweet or communicate in any way the content of exempt or confidential business dealt with in closed session such as when making formal appointments.

## 8.0 Golden rules

- 8.1 Think before you tweet or post on Facebook. Do not say anything, post views or opinions that you would not be prepared to:
- Discuss face to face with the person you are speaking about.
  - Write on a placard and carry down your high street and discuss and defend with anyone who sees it.
  - Be prepared to have minuted in a public meeting – remember Twitter or Facebook effectively publicly minutes everything for you as you go along.
- 8.2 Remember that once you have said something it may be seen by millions - friends, supporters, political opponents and the press and could be re-tweeted around the world in minutes.
- 8.3 Keep your messages professional, polite and positive.
- 8.4 Remember to try to keep tweets and texts separate – many people tweet comments that they would previously have texted someone privately; this may be about meeting up later through to ‘in’ jokes that could be misinterpreted.
- 8.5 Don’t follow an individual unless you know them or have a good reason for doing so. Some people, such as constituents or council employees, might find it uncomfortable to have their local councillor hanging on their every word.
- 8.6 If you make a mistake - admit it. Mistakes happen so don’t try to cover it up as there will always be a record of what you’ve said.
- 8.7 Don’t enter into unhelpful online arguments; remember all of your followers or friends will be witnessing this online. Ignore people or block them if they persist in vexatious comments.
- 8.8 Don’t tweet or post on Facebook when you are tired. It’s probably sensible to turn off your phone at any time when you think your judgement may be impaired.
- 8.9 Bear in mind that it is possible for your followers and friends to be seen. If you follow or are Facebook “friends” with council employees, contractors who have been procured to provide services to the council, a company or member of the public making a planning application or pressure groups, this might be construed as having a close personal association with them and therefore a personal interest.
- 8.10 As with your own leaflets or newsletters, always ask permission before taking a picture that you intend to use. NEVER take photos of children without the express permission of their parents based on an understanding of what you intend to use the picture for.

- 8.11 Do not allow anyone else access to your social media accounts, protect your passwords, especially if you use a public computer.
- 8.12 Just like email, you can get spam in social media. Be wary about direct messages via Twitter, even from people you know, with messages such as 'Hi, have you seen this photo of you on Twitter?' Delete these before opening, as the spam could then be sent to all of the people you are following.

## **9.0 The Law**

- 9.1 Councillors new to social media tend to be concerned about the legal implications. It is an important consideration, and some councillors and other politicians have fallen foul of the law, but with careful use and following some ground-rules you will be fine.
- 9.2 The style of communication employed in the social media environment tends to be fast and informal. Messages can appear lightweight and transitory.
- 9.3 Whenever you post something on social media, it becomes a publication, you have effectively made a broadcast. As it is now in the public domain, it is subject to both the Code of Conduct and to various Laws.

### **Code of Conduct**

If you conduct yourself on Twitter or Facebook as you would in person on the street then you will be fine.

Remember that according to guidance from the Ombudsman, the Code of Conduct applies to you whenever you are "Conducting the business of your authority, acting, claiming to act or give the impression you are acting in your official capacity as a member or representative of your authority" Also the Code applies if you "Conduct yourself in a manner which could reasonably be regarded as bringing your office or your authority into disrepute" If you can be identified as a councillor when you are using social media, either by your account name or how you describe yourself or by what you comment upon and how you comment, the requirements of the Code of Conduct apply. Also if you say something that could be regarded as bringing your office or authority into disrepute the Code applies even if you are not apparently acting in your official capacity or do not identify yourself as a member.

Remember that the Ombudsman's guidance states that "Making unfair or inaccurate criticism of your authority in a public arena might well be regarded as bringing your authority into disrepute"

In the same way that you are required to act in council meetings or in communities you should:

- Show respect for others - do not use social media to be rude or disrespectful.
- Not disclose confidential information about people or the council.
- Not bully or intimidate others - repeated negative comments about or to individuals could be interpreted as bullying or intimidation.
- Not try to secure a benefit for yourself or a disadvantage for others.

- Abide by the laws of equality – do not publish anything that might be seen as racist, sexist, ageist, homophobic or anti faith. Even as a joke or “tongue in cheek”

### **Predetermination**

As a councillor, you are aware that when you act in a quasi-judicial capacity, for example on a planning or licensing committee, you should not make up your mind about an issue that is to be formally decided upon before you have heard all the relevant information. You are allowed to be predisposed to a particular view but not to have gone so far as to have predetermined your position. It is important to remember therefore that anything relevant you might have said about particular issues on social media could be used as evidence of your having made up your mind in advance of hearing all the relevant information.

### **Criminal Offences**

These generally apply to you already in your conduct as a councillor, but it is worth considering them as they apply to social media:

Harassment - It is a criminal offence to repeatedly pursue a campaign against someone where this is likely to cause alarm, harassment nuisance or distress.

Data Protection - It is illegal to publish personal data about individuals unless they have given you their permission. As a councillor you are a data controller in your own right and therefore personally responsible for what you publish.

Incitement - It is a criminal offence to incite any criminal act.

Discrimination and Racially Aggravated Offences (or any other protected Characteristic) - It is a criminal offence to make a discriminatory remark about anyone based on a “Protected Characteristic” as defined in The Equality Act ( such as their race, religion, sexual orientation etc).

Malicious & Obscene Communications - It is a criminal offence to send malicious or obscene communications.

### **Civil Law**

Defamation - It is against the law to make a false statement about someone which damages their personal or professional reputation. Crucially - even if you simply retweet or pass on information originally posted by others, you may still be held equally as responsible as the original commentator. This can also apply to publishing images. If you're found liable to another person, you could be ordered to pay large sums of money as damages.

Recent high profile example of defamation via social media:

“High Court: Sally Bercow's Lord McAlpine tweet was libel”

<http://www.bbc.co.uk/news/world-22652083>

Copyright - The legal ownership of the contents of documents, photos, videos and music belong to the person who created them. You could be in breach of copyright if you reproduce such material without the owner's permission. Always ask for written consent before you use someone else's material.

Political Comment and Electioneering - Remember that although it is acceptable to make political points or canvass votes via your own social media accounts this will not be permissible if you are using this via council supplied computer equipment, certainly in the run-up to elections. The Electoral Commission has further information about the return on expenditure that candidates need to provide on advertising or campaign literature.

## 10.0 Further Information, Interesting Sites and Sources of Help

10.1 Bear in mind that information, sites and terminology change quickly. Facebook is already reporting a drop in users.

10.2 Here are some current examples of information and useful sites but bear in mind that they may be quickly out of date.

Sign on to Twitter here

<https://twitter.com/>

Twitter Guide - -How To, Tips and Instructions

<http://mashable.com/guidebook/twitter/>

Sign up to Facebook here

<https://en-gb.facebook.com/>

Facebook Guide – How To, Tips and Instructions

<http://mashable.com/guidebook/facebook/>

Tweety Hall.

A platform that gathers all the Councillors that have Twitter accounts in the UK together so that all their posts can be read in one place and the public can easily find their local councillor. All you have to do to join them is send them a Tweet.

<http://tweetyhall.co.uk/>

Twenty-first century councillors

<http://socialmedia.21st.cc/>

Useful guidance for members using social media.

LGA's Knowledge Hub is an example of a community of practice. This one was set up specifically for people working in and with local government and has online forums, libraries full of materials and details of events.

<https://knowledgehub.local.gov.uk/>

Social Media and Online Collaboration Community.

Join this Community of the KnowledgeHub to talk to other councillors and officers working with Social Media.

## 11.0 Glossary

### Blog

Term derived from Weblog i.e an internetlog or diary

### Blogosphere

All the Blogs on the Internet

### Community of Practice

Group of people who are members of an online 'club' because they have a role or an interest in an area of work

### Direct Message

A message sent via Twitter to someone who follows you or who you follow.

### Facebook

An example of social networking

### Flickr

Photo sharing site

### Follower

Someone who has chosen to follow you on Twitter

### Friend

Someone you have allowed to access your Facebook page.

### Forum

A virtual discussion area

### #Hashtag

A hashtag or # is a way of denoting a keyword which can be used as a search term on Twitter.

### Instagram

A platform for sharing photos and videos

### Instant Messaging

A conversation with one other person via for example Microsoft Live Messenger or Yahoo Messenger. A conversation which, if you indicate that you are available for a chat is more immediate than e mail and easier to type than a text

### Microblog

Short blog e.g. Twitter using a maximum of 140 characters

### Pintrest

A virtual pinboard for creating and sharing images

### RebelMouse

A free service that connects to your accounts at services such as Facebook, Twitter and/or Instagram. It integrates all your SM Tweets, postings and blogs automatically into one page, boosting your SM presence without you doing anything extra as it 'runs in the background'. It will save you having to tweet your blogs etc. to get more prominence on search engines.

Retweet

To forward a Tweet received on Twitter

RSS feeds or Really Simple Syndication feeds

Messages from websites informing you that new information is available so that you don't have to keep checking the website for updates

Social Bookmarking

A way of saving and sharing all your favourite sites on the web, for example, Delicious

Social networking

Facebook etc

Snapchat

A photo messaging application for photos, videos, drawings and text

Spam

Electronic junk mail

Trending

Current popular people or conversations as in trending on Twitter now...

Troll

Someone who disrupts online communities or discussions through unhelpful, malicious or irrelevant posts

Tweet

A message sent on Twitter

Tweety Hall

A virtual gathering place for councillors with Twitter accounts

Twitter

An example of microblogging

Vimeo

A platform for sharing videos and photographs

Wiki

A tool which enables anyone to add or edit content on a website

Wikipedia

Online Encyclopaedia which works using this method and is therefore not always accurate

You Tube

A platform for sharing videos and photographs

Credits: WLGA 2013

# Petitions from the public

## 1.0 Paper petitions can be sent to:

Committee Services Manager  
Thanet District Council  
PO Box 9  
Cecil Street  
CT9 1XZ

Petitions can also be presented to a meeting of the Council. Dates and times can be found at [www.thanet.gov.uk](http://www.thanet.gov.uk)

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

1. Ordinary petitions - those petitions signed by 25 or more petitioners but fewer than 650 will be presented to Council and referred to the Cabinet or another appropriate committee without debate, for report to the Council within three ordinary meetings.

2. Petitions signed by 650 or more petitioners, but fewer than 1,000, will be considered at a meeting of the [Executive, Policy & Community Safety Overview and Scrutiny Panel \(if the petition is requesting for a new service or requiring Council action on an emerging matter affecting the local community\)](#) or the [Finance, Budget & Performance Scrutiny Panel \(if the petition is requiring reviewing or rescinding a Cabinet or Council decision\)](#), and, the petitioner will have the option to have a named officer attend the meeting to give evidence.

3. Petitions signed by 1,000 or more petitioners will be debated at a meeting of Council, unless:

- (a) the petitioner has already exercised the above option to request that a named officer attends, in which case it will be considered at a meeting of the [relevant Overview and Scrutiny Panel](#) or
- (b) the petition relates to an issue for which the executive has responsibility and Council decides, following presentation of the petition, to refer it to Cabinet without debate. In such a case, the person who presents the petition at the Council meeting will be able to re-present the petition at the subsequent meeting of Cabinet at which the petition is considered.

## 1.1 What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:

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

A petition proforma for paper petitions that will help you to collect the correct information is available to download on the Council's website at [www.thanet.gov.uk](http://www.thanet.gov.uk).



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

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

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

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

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

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

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

Further to the above, the Monitoring Officer will also reject a petition if the matter has already been or is currently subject to an existing consultation exercise. In such a case the petition will be forwarded to the officer responsible for that consultation exercise and considered as part of that process.

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

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

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

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

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

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

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

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

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

## **1.3 How will the Council respond to petitions?**

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

- taking the action requested in the petition
- considering the petition at a committee meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting

- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the [relevant](#) Overview and Scrutiny Panel\*
- writing to the petition organiser setting out our views about the request in the petition
- requiring a Senior Officer to attend a meeting of the [relevant](#) Overview and Scrutiny Panel to give evidence\*
- Holding a debate at that full Council meeting

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

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

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

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

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

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

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

#### 1.4 Smaller Petitions

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

number of signatories providing a Thanet address and the number providing an outside of Thanet address.

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

### 1.5 Officer evidence

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

The petition organiser will be offered five minutes to present the petition at the meeting and the petition will then be discussed by Councillors. The accompanying report will include the number of signatories providing a Thanet address and the number providing an outside of Thanet address.

You should be aware that the Overview and Scrutiny Panel may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition. The Panel may also decide to call the relevant Councillor Portfolio Holder to attend the meeting. Panel members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Chairman of the [relevant](#) Overview and Scrutiny Panel up to three working days before the meeting. Confirmation of an officer giving evidence at a public meeting of the [relevant](#) Overview and Scrutiny Panel will also be published on our website.

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

### 1.6 Full Council debates

If a petition contains 1,000 or more signatures it will be debated by the Council unless it falls into the categories described at paragraphs (a) and (b) below. The report will include the number of signatories providing a Thanet address and the number providing an outside of Thanet address.

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

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

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

Exceptions:

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

### **1.7 Re-presentation of petitions at meetings of Cabinet**

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

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

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the [relevant](#) Overview and Scrutiny Panel review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

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

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

### **1.9 E Petitions**

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

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

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

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

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

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

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

You can see all the e-petitions currently available for signature at [www.thanet.gov.uk](http://www.thanet.gov.uk).

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

### **2.1 Can I run an e-petition and a paper petition at the same time?**

Yes, you can run an e-petition and a paper at the same time, but there are a number of rules that you must adhere to.

The clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take, often known as the "petition prayer", must be identical for both your e-petition and paper petition. If they are not then they would be treated as separate petitions.

The end date of your e-petition and the date that you submit your paper petition must be the same, if not then they would be treated as separate petitions.

It is important to note that any petition treated as "separate" because of failure to comply with the above two rules would almost certainly be ruled out on the "substantially similar" to a previous petition rule outlined in paragraph 1.1 of this scheme.

The number of signatories to both the e-petition and to the paper petition would then be reported separately but within the same report to either a Council meeting or a meeting of the [relevant](#) Overview and Scrutiny Panel. The Council will take a course of action based on the largest threshold met by either petition.

For example, if the Council received an e-petition with 250 signatures and an accompanying paper petition with 1,500 then the Council would treat the petition as reaching the threshold for a debate at Council. The report to Council would state the number of signatories to both the e-petition and the paper petition, but it would not add them together.



# Members Code of Conduct

## 1.0 PREAMBLE

- 1.1 The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- 1.2 The Code applies to you as a Member or Co-opted Member of the Thanet District Council when acting, claiming to act or giving the impression that you are acting, in that capacity.
- 1.3 The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in **Annex 1**.
- 1.4 This Preamble and the Principles and associated commentary do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- 1.5 If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser - but it is entirely your responsibility to comply with the provisions of this Code.
- 1.6 In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest, it is a criminal offence if without reasonable excuse you:
  - Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the day on which you became a member.
  - Fail to disclose the interest at meetings where the interest is not entered in the authority's register.
  - Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of disclosure at a meeting, if the interest is not entered in the authority's register and is not the subject of a pending notification.
  - Take part in discussion or votes, or further discussions or votes, at meetings on matters in which you have the interest which are being considered at the meeting.
  - Fail to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the authority.
  - Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
  - knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.



- 1.7 Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## 2.0 THE CODE

### 2.1 Interpretation

In this Code:

**“Associated Person”** means (either in the singular or in the plural):

- (a) 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
- (b) 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
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) 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
- (e) any body in respect of which you are in a position of general control or management and which:
  - (i) exercises functions of a public nature; or
  - (ii) is directed to charitable purposes; or
  - (iii) 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).

**“Authority”** means Thanet District Council.

**“Authority Function”** means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

**“Code”** means this Code of Conduct.

**“Co-opted Member”** means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or

- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

**“Disclosable Pecuniary Interest”** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in **Annex 2** and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

**“Interests”** means Disclosable Pecuniary Interests and Other Significant Interests.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is an elected member of the Authority and includes a co-opted Member.

**“Significant Interest”** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) 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;

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.

**“Register of Members’ Interests”** means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**"Sensitive Interest"** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## 2.2 Scope

You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

## 3.0 General obligations

- 3.1 You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

### 3.2 You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- (d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the written consent of a person authorised to give it; or
  - (ii) you are required by law to do so; or
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the Authority;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

## 4.0 Registering Disclosable Pecuniary Interests

4.1 You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.

4.2 In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.

4.3 Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

## **5.0 Declaring Disclosable Pecuniary Interests and Significant Interests**

- 5.1 Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- 5.2 Where you are present at a Meeting and have a Disclosable Pecuniary Interest or a Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:
- (a) disclose the Interest; and
  - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
  - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
  - (e) not seek improperly to influence a decision about that business.
- 5.3 Where you have a Disclosable Pecuniary Interest or a Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - (c) not seek improperly to influence a decision about the matter.
- 5.4 Where you have a Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

## **6.0 Sensitive Interests**

- 6.1 Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- 6.2 You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under

paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.

- 6.3 The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

## **7.0 Gifts and Hospitality**

- 7.1 You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £25 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £25 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- 7.2 Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have a Significant Interest, in which case the procedure in paragraph 5 above will apply.

- 7.3 You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.

- 7.4 The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

## **8.0 Dispensations**

- 8.1 The Standards Committee, or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

- 8.2 A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee or the Monitoring Officer (where authorised) considers that:

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
- (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
- (c) granting the dispensation is in the interests of persons living in the Authority's area; or

- (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
  - (e) it is otherwise appropriate to grant a dispensation.
- 8.3 A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- 8.4 Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

**ANNEX 1****THE SEVEN PRINCIPLES OF PUBLIC LIFE**

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**PREAMBLE:** The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.

**INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**ACCOUNTABILITY:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**HONESTY:** Holders of public office should be truthful.

**LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**ANNEX 2****DISCLOSABLE PECUNIARY INTERESTS**

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 prescribe that the interests described in Table 1 below are Disclosable Pecuniary Interests:-

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge):  (a) the landlord is the relevant authority; and  (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where:  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



These descriptions are subject to the following definitions:

**“the Act”** means the Localism Act 2011

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

**“director”** includes a member of the committee of management of an industrial and provident society

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

**“M”** means a member of the relevant authority

**“member”** includes a co-opted member

**“relevant authority”** means the authority of which M is a member

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**“securities”** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

# Protocol for the Guidance of Planning Committee Members and Officers

## 1.0 Introduction

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

## 2.0 The Roles and Conduct of Members and Officers involved in the Planning Process

- 2.1 Members and officers have different but complementary roles. Both serve the public but members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise members and the Council and carry out the Council's work. They are employed by the Council, not by individual members. It follows that instructions may only be given to officers through a decision of the Council or one of its duly constituted Committees or Sub-Committees or by the Cabinet as a whole or one of its duly constituted Committees or by an individual Cabinet Members in exercise of individual executive decision making powers. Any other system which develops is open to question.
- 2.2 Both members and officers are guided by codes of conduct. Of particular relevance to members involved in the planning process are Paragraph 3.2(c) and 3.2(g) of the Members Code of Conduct which provides that a member must not:

*'do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority'; and*

*‘use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage’*

- 2.3 If a member fails to comply with any of the requirements of the Members Code of Conduct this may be regarded by the local ombudsman as maladministration and may be the subject of a complaint to the Standards Committee. This could result in disciplinary action against the member by the Standards Committee and adverse publicity in the local media. More seriously, if without reasonable excuse a Member fails to either register or declare a Disclosable Pecuniary Interest in accordance with the requirements of the Members Code, they risk committing a criminal offence and, if convicted, may be fined up to £5,000 and disqualified from office for up to five years.
- 2.4 Whilst members have a special duty to their ward constituents, including those who did not vote for them, their overriding duty is to the whole community. Consequently, members of the planning committee serve the public interest and although they will be subject to intense lobbying on occasion and should take account of the views expressed, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Councillors who do not feel that they can act in this way should decline to be appointed to the planning committee.
- 2.5 If an Officer breaches the Officer Code of Conduct, they may be subject to disciplinary action in accordance with the Councils Disciplinary Procedure. Moreover, an officer who is also a Chartered Town Planners will be subject to the Royal Town Planning Institute's Code of Professional Conduct, a breach of which may result in disciplinary action by the Institute.
- 2.6 A successful relationship between members and officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised. Further guidance on this is set out in the adopted Protocol on Member/Officer Relations.

### **3.0 Registration and Declaration of Interests**

- 3.1 The Members Code of Conduct imposes requirements on members in relation to the registration and declaration of interests as well as specifying the effect that specific declarations will have on a Members participation in the decision making process.
- 3.2 The Members Code identifies two distinct interests the first of which, Disclosable Pecuniary Interests (DPI's), must be registered with the Monitoring Officer and, where appropriate, disclosed at Council meetings, including meetings of the Planning Committee. The second types of interest, called a Significant Interest, is not a registerable interest but, where appropriate must also be disclosed at meetings of the Planning Committee. In both cases, unless a dispensation had been obtained in advance from the Standards Committee or the Monitoring Officer, a Member who has a DPI or a Significant Interest to declare in relation to any matter under consideration at a meeting of the Planning Committee, must :-
- i). disclose the interest;
  - ii). explain the nature of that interest;
  - iii). not participate in any discussion on the matter under consideration;
  - iv). withdraw from the meeting room; and
  - v). not seek improperly to influence a decision about that matter.

- 3.3 The Register of Members' Disclosable Pecuniary Interests is maintained by the Monitoring Officer and is published on the Council's web-site as well as being available for public inspection at the Council Offices. The Members Code requires all members to provide the Monitoring Officer with written details of relevant DPI's within 28 days of the date of acceptance of office. Any changes to those interests must similarly be notified within 28 days of the member becoming aware of such changes
- 3.4 The Members Code makes it clear that a Member will have a Disclosable Pecuniary Interest to declare at a meeting of the Planning Committee if a planning application relates to or is likely to affect an interest contained in the Register of Members Disclosable Pecuniary Interests.
- 3.5 A Member will also have a Significant Interest to declare if the Planning Committee is considering:
- (i) a planning application made by or behalf of the Member or by or on behalf of an 'Associated Person' (see Paragraph 3.6 below); or
  - (ii) a planning application that affects the Members financial position or the financial position of an 'Associated Person';

and in either case, a member of the public with knowledge of the relevant facts would reasonably regard the nature of the Member's interest as so significant that it was likely to prejudice their judgement of the public interest - i.e. affect or influence the Members voting intentions.

- 3.6 An 'Associated Person' is given a wide definition in the Members Code. In summary, in relation to any Member the following persons or bodies will qualify as an Associated Person:-
- (i) family members and close associates including the Members spouse/civil partner or person with whom the Member is living as husband and wife or as civil partners;
  - (ii) the Members employer, or a firm in which the Members is a partner or a company of which the Member is a director;
  - (iii) the employer of a family member or close associate, or any firm in which a family member or close associate is a partner, or any company in which a family member or close associate is a company director;
  - (iv) any outside body of which the Member is in a position of general control or management and to which he or she has been appointed or nominated by the Council;
  - (v) any outside body of which the Members is in a position of general control or management and which exercise functions of a public nature or is directed to charitable purposes or has as its principal purpose or one of its principal purposes the influencing of public opinion or policy (e.g. campaign/lobby groups, political parties and trade unions);
  - (vi) any person or body in which the Member, a family member or a close associate has a beneficial interest in a class of securities exceeding the nominal value of £25,000

- 3.7 It is the advice of the Monitoring Officer that any Member whose financial interests or those of an Associated Person may be affected by a planning application (whether positively or negatively), should consider themselves to have a Significant Interest and act accordingly.
- 3.8 Guidance on the disclosure of DPI's and Significant Interests at meetings of the Planning Committee may be obtained from the Monitoring Officer or the [Democratic Services and Scrutiny Committee Services](#) Manager or the legal advisor present at the meeting of the Planning Committee. However, the ultimate responsibility for complying with the obligations to declare interests imposed by the Members Code and to act accordingly rests with each member.
- 3.9 Members who have substantial property interest or other interests which will result in the frequent declaration of Disclosable Pecuniary Interests should avoid serving on the Planning Committee.

#### **4.0 Gifts and Hospitality**

- 4.1 Members and officers must act at all times in the public interest and therefore any offers of gifts, hospitality or other benefits should in the first instance be declined politely as a refusal will rarely offend.
- 4.2 If, however, a member acting in an official capacity receives a gift, benefit or hospitality with an estimated value of £25 or more, or receives a series of gifts, benefits or hospitality from the same or an associated source with an estimate cumulative value of £25 or more, declaration of its receipt, including the source, must be made to the Monitoring Officer within 28 days who will enter it in the Register of Members Gifts & Hospitality.
- 4.3. If a member who has registered the receipt of gift, benefit or hospitality in the Register of Members Gifts & Hospitality within the last three years is present at a meeting of the Planning Committee and a matter under consideration at the meeting would affect the interests of the donor of any such gift, benefit or hospitality, then the member must at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality (as the case may be) together with the identity of the donor. However, unless this would amount to a Significant Interest, the member may remain in the meeting and participate in any discussion or vote on the matter.
- 4.4 Nevertheless, it is the advice of the Monitoring Officer that any Member who makes a declaration at the Planning Committee concerning the receipt of a gift benefit or hospitality entered in the Register of Members Gift and Hospitality, should consider themselves to have a Significant Interest and act accordingly.
- 4.5 *Officers are required by the Officers Code of Conduct to refuse gifts and hospitality unless they are modest in nature and refusal would offend the donor or the return of a modest gift is not possible (e.g. left at reception by an anonymous donor).* Officers are required to notify the Monitoring Officer of the receipt of any gift or hospitality, together with an estimate of the value of any such gift or hospitality within fourteen days of receipt. The Monitoring Officer will enter all such disclosures in the Register of Officers Gifts and Hospitality.
- 4.6 However, any officer involved in the planning process should never accept a gift, however modest, in connection with that involvement and only accepts hospitality

which consist of no more than a light refreshment when refusal would offend the donor.

## **5.0 Training**

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

## **6.0 Lobbying**

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

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

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

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

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

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

## **7.0 Members' Applications**

7.1 Serving Councillors and Officers should never act as agents for people pursuing a planning matter with their Authority. Should they submit their own proposals to the Council they should take no part in its processing.

7.2 Members are requested to notify the Planning Manager of their intention to make a planning application and are required to declare on the face of the Application form that they are a member of the Council..

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

## **8.0 Officers' Applications**

8.1 As soon as an officer submits a planning application, they should inform the Council's Monitoring Officer in writing. A copy of the notification will be placed on the Register of Officer's interests maintained by the Monitoring Officer.

8.2 Applications submitted by or on behalf of an officer or made in respect of land in which the officer has a beneficial interest and of which the officer is aware shall be determined by the Planning Committee. The Planning Committee will be informed of the fact that the application is made by or on behalf of an officer.

## **9.0 Membership of Planning Committee and Substitutions**

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

9.2 It shall be the responsibility of the Member unable to attend the Planning Committee meeting to appoint a substitute Member from the pool and inform the [Democratic Services & Scrutiny Committee Services](#) Manager, in accordance with the Council's Constitution.

9.3 As the pool of substitutes for the Planning Committee is politically balanced, the substitute Member must be a member of the same Political Group as the Member being substituted.

## **10.0 Weekly List of Planning Applications and Call-In Procedure**

10.1 Subject to the exceptions described in Paragraphs 7 and 8 above (member and officer applications) and Paragraph 14 below (departures from the Development Plan) all planning applications may be determined by the Director of Community Services under delegated powers unless 'called in' by a Member for determination by the Planning Committee.

- 10.2 Any request by a Member for an application to be determined by the Planning Committee shall be made in writing to the planning Case Officer and Planning Applications and Enforcement Manager. That Member will be required to justify the need for the item to be determined by the Planning Committee on planning grounds.
- 10.3 Members will be notified of all planning applications for planning permission, listed building consent, conservation area consent, consent to display advertisements, applications under regulation 3 and 4 of the Town and County Planning (General Regulations) in respect of development by Thanet District Council, and applications for prior approval under Part 24 of the Town and Country Planning (General Permitted) Development 1995 (as amended).
- 10.4 Notification will be in the form of individual letters and by means of the weekly list of planning applications circulated to all Members. Any request for an application must be made within 4 weeks of the date of the weekly list.
- 10.5 In exceptional cases the Chairman of the Planning Committee can agree to an application being determined by the Planning Committee at the request of a Ward Member beyond the above specified periods provided that the application has not already been determined by the Director of Community Services.

#### **11.0 Decision Making at Planning Committee**

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

#### Moving the Motion

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

#### Amendments

- 11.4 Where the motion under debate is to grant planning permission a member may propose an amendment to vary or delete a proposed condition or to add an additional condition. Where the motion under debate is to refuse planning permission a member may propose an amendment to vary or delete a ground of refusal or to add an additional ground of refusal. Any member proposing an amendment will be required to give planning based reasons for the amendment which will be recorded in the minutes of the meeting. The Council's Constitution expressly prohibits 'negating' amendments, i.e. that propose the direct reverse of the motion under consideration, for example, where the motion under consideration is to grant planning permission and the purported amendment is to refuse to grant planning permission.



### Refusal of Planning Permission against Officer Advice

- 11.5 Where the Planning Committee is minded to refuse planning permission against officer advice the Planning Committee is required to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of members of the Planning Committee at the point of refusal. In addition, the Council is at risk of having costs awarded against it, if, subsequently on appeal, it is unable to justify each ground of refusal.
- 11.6 Consequently, if a motion to grant planning permission in accordance with officer advice is put to the vote and lost, the Chairman will then seek a proposer and seconder for an alternative motion. If any member of the Planning Committee is minded to refuse to grant planning permission they should move that they are so minded and seek a seconder for that motion. Thereon the Chairman will adjourn the meetings to enable the mover and seconder to seek the officer advice on the reasons for refusal. Following receipt of advice the Chairman will reconvene the meeting and the mover, with the agreement of the seconder will amend the motion to a motion that planning permission be refused for specified reasons.

### Grant of Planning Permission against Officer Advice

- 11.7 Where the Planning Committee is minded to grant planning permission against officer advice the Planning Committee is required to give adequate and intelligible reasons for granting planning permission as well as considering what conditions should be imposed and the reasons for those conditions. In addition, where the grant of permission would constitute a departure from a policy or policies in the Development Plan, Members will need to identify clear and substantial material considerations that justify departing from the Development Plan.
- 11.8 Consequently, if a motion to refuse planning permission in accordance with officer advice is put to the vote and lost, the Chairman will then seek a proposer and seconder for an alternative motion. If any member of the Planning Committee is minded to grant planning permission they should move that they are so minded and seek a seconder for that motion. Thereon the Chairman will adjourn the meetings to enable the mover and seconder to seek officer advice on the reasons for granting planning permission. Following receipt of advice the Chairman will reconvene the meeting and the mover, with the agreement of the seconder, will amend the motion to a motion that the Planning Committee is minded to grant planning permission for specified reasons and that either:-
- The Director of Community Services be given delegated authority to grant planning permission and issue a decision notice with conditions attached that reflect the intentions of the Planning Committee; or
  - The application be deferred and brought back to the next meeting of the Planning Committee with recommended safeguarding conditions.

### Voting

- 11.9 At the conclusion of the consideration of an application the Chairman will call for a vote. Voting on any motion will normally be signified by a show of hands but if there is no dissent may be signified by the affirmation of the Committee. In the event of an equality of votes the Chairman may exercise a casting or second vote and no record shall be made at the time of voting of the votes of individual Members unless, before

a vote has been taken a majority of the members present have demanded a recorded vote in accordance with Council Procedure Rule 21.4. After a vote has been taken by affirmation or a show of hands a Member may also request that his or her vote is recorded in the minutes of the meeting.

## **12.0 Public Speaking on Planning Applications**

12.1 The Council operates a system of limited public speaking at Planning Committee, meaning that the Committee will receive and take into account representations from a number of interested parties prior to the application being considered by the Planning Committee. Representations are limited to three minutes per speaker and are taken in the following order: -

- From the applicant or his or her representative;
- From one\* person raising points of concern;
- From one representative of the Town or Parish Council (if applicable);
- From a ward councillor who indicates to the Chairman that he or she wishes to speak; and
- From a councillor who has declared a prejudicial interest in relation to the planning application but who wishes to address the Committee prior to leaving the meeting.

\* From three persons in the case of a major planning application.

12.2 In practice the Council will write to all persons who have raised points of concern on a planning applications advising of the date that the application will be considered by the Planning Committee and giving information as to how to register to exercise public speaking rights at the meeting. Currently, applications to register to speak must be received by the Council by not later 12.00 noon on the Monday preceding the date of the meeting of the Planning Committee and is on a 'first come first served' basis, that is to say the person who registers to speak first will be successful - or in the case of a major planning application, the first three such persons.

## **13.0 Site Visits**

13.1 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material (including photographs taken by Officers) Site visits may cause delay and additional costs and should only be used where the expected benefit is substantial. For these reasons, it is expected that the members voting for a site visit will make all reasonable efforts to attend.

13.2 A site visit is a fact finding exercise and should consist simply of an inspection by viewing Members with Officer assistance in the presence of the applicant and any objectors, or even an unaccompanied visit (ie without applicant and objectors), as the main purpose of a site visit is to see the subject matter of the application.

13.3 Each site visit will be chaired by the Chairman of the Planning Committee or in his or her absence by the Vice Chairman. If the Chairman and Vice Chairman are absent, the members present will elect a Chairman from among their number.

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

### Protocol Compliance

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

### Public Speaking

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

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

Where there is significant public interest in and attendance at a site visit, the Site Visit Chairman may at his or her discretion permit limited additional public speaking.

### Requests to View Site

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

## **14.0 Development Plan Departures**

- 14.1 All applications not in accordance with the development plan must be identified as soon as possible.
- 14.2 If approval is recommended, all material considerations must be clearly identified and how members justify overriding the development plan clearly demonstrated.
- 14.3 If the Officer's report recommends approval of a departure the justification for such a departure must be included in full in the report.
- 14.4 The Planning Committee may approve such a departure although the application may then have to be referred to the Secretary of State for Communities and Local Government depending on the type and scale of development proposed.

14.5 Addenda and conditions may be attached to an application at the request of Members but as in 11.4 any such conditions must be fully minuted with the mover and seconder recorded.

### **15.0 Briefing Meetings**

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

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

# Officers' Code of Conduct

## Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. It is recognised that the integrity of the Council rests on mutual trust and respect between elected Members and employees of the Council. The Chief Executive places particular emphasis on the quality of this relationship and undertakes to maintain a climate in which mutual trust and respect can thrive.

This Code outlines the existing laws, regulations and conditions of service and provides further guidance to assist employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new "modernised" local authority environment.

This Code lays down minimum standards for employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. Failure to meet such standards can result in adverse public comment to the detriment of the Council and the service and in certain circumstances can have serious consequences for the employee and put their job at risk.

Although this Code cannot be exhaustive, it contains sufficient guidance to make employees aware of what is required. If circumstances arise which leave an employee in doubt as to what should be done, they should immediately arrange to obtain advice from their appropriate manager or an appropriate senior officer.

## 1.0 Standards

- 1.1 Local government employees are expected to give the highest possible standard of service to the public, and, where it is part of their duties, to provide appropriate advice to other employees and members with impartiality.
- 1.2 Employees will be expected, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 1.3 Employees must report to the appropriate manager any impropriety or breach of procedure.

NB: A copy of the Council's "Whistleblowing" Policy may be obtained from Human Resources.

## 2.0 Disclosure of Information

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. The Authority itself may decide to disclose other types of information when the law permits such disclosure. Employees must be aware of the information their Authority must make available, the information that it is prepared to make openly available, and that which it is not prepared to disclose.
- 2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way otherwise than might reasonably be expected in the normal course of their duties. Any particular information received by an employee

from a Member which is personal to that Member and does not belong to the Authority should not be divulged by the employee without the prior approval of that Member, except where such disclosure is required or sanctioned by law.

- 2.3 All confidential or exempt information and material (oral and written) must be treated accordingly unless it becomes public in the course of the Authority's business.
- 2.4 Information concerning an employee's private affairs shall be treated sensitively and confidentially and shall not be supplied to any person outside the service of the Authority unless the consent of such employee is first obtained.
- 2.5 In certain circumstances, employees may have a legal or professional duty to disclose information to a third party (e.g. in the course of legal proceedings). Disclosure within the service shall only take place for proper purposes and in connection with the function concerned.

(a) **Political Neutrality**

- 3.1 Employees service the Authority as a whole. It follows that they must serve all Members not just members of any controlling group, and it must be ensured that the individual rights of Members are respected.
- 3.2 Employees shall not be required to advise any political group of the Authority either as to the work of the group or as to the work of the Authority, neither shall they be required to attend any meeting of any political group.
- 3.3 Employees, whether or not "politically restricted", must follow every lawful expressed policy of the Authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Any political assistants appointed in accordance with the Local Government and Housing Act 1989 shall be exempt from the standards set in paragraphs 3.1 to 3.3.

**4.0 Political Restrictions**

- 4.1 Some specific posts are legally barred from political activity. The employees affected are informed of these facts and the restrictions are contained and detailed within their individual employment contracts. These restrictions ban these employees from:
  - (a) Holding elected office as a Member of Parliament, Member of the European Parliament, any Local Authority (except a Town or Parish Council);
  - (b) Acting as an Election Agent or Sub-Agent;
  - (c) Holding office in a political party;
  - (d) Canvassing at elections; and
  - (e) Speaking or writing publicly on matters of party political controversy where there is an apparent intention to effect political support.

## 5.0 Relationships

### Members

- 5.1 Employees are responsible to the Authority through its senior managers. For some, their job is to give support to Members and senior managers and all are there to carry out the Authority's work. Mutual respect between employees and Members is essential to good local government. Close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and Members, and should therefore be avoided
- 5.2 Individual Members must not involve themselves in any matter relating to the appointment, promotion, dismissal, salary, superannuation, conditions of service, discipline, grievance or any industrial relations matters except through the official channels of the Council.

### The Local Community and Service Users

- 5.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community as defined by the policies of the Authority.

### Contractors

- 5.4 All relationships of a business or of a private nature with external contractors (ie those working for and doing business with the Council), or potential contractors, should be made known to the appropriate manager. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no favouritism should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.
- 5.5 Employees who engage or supervise contractors or have any other official relationships with contractors and have previously had, or currently have a relationship of a business or of a private nature with contractors, should declare that relationship to the appropriate manager.

## 6.0 Appointment and other Employment Matters

- 6.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a personal relationship outside work with them.
- 6.2 Normally, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative or partner etc.
- 6.3 However, circumstances may arise whereby a relative employed by Thanet District Council could represent an employee in a disciplinary case.

## **7.0 Outside Commitments**

- 7.1 Employees' off-duty hours are their personal concern, but they should not subordinate their employment relationship with the Authority to their private interests or put themselves in a position where there is a conflict of interests. However, exceptions will be made with a Union official is carrying out official Union duties which may result in a conflict of interests.
- 7.2 The Authority will not normally prevent an employee from undertaking additional employment or other commitments, but any such employment must demonstrably not conflict with, or in any way weaken public confidence in, the conduction of the Authority's business.
- 7.3 Employees should be aware of specific items of ownership of intellectual property or copyright created during their employment. All creative ideas or designs produced during employment shall be in the Authority's ownership.
- 7.4 Employees above Local Grade H shall normally be expected to devote their whole time service to the work of the Authority and shall not engage in any other additional employment without the express consent of the Authority.

## **8.0 Personal Interests**

- 8.1 Employees must give notice in writing of any financial or non-financial interests which are clear and substantial and which could bring about a conflict with the Authority's interests. Any change must be similarly notified.
- 8.2 In addition, membership or acting as an officer (honorary or otherwise) of any secret society (as defined below) should be notified in writing as in 8.1 above whether or not a demonstrable conflict of interest with the Authority's interests arises or may arise.
- 8.3 For the purposes of this Code, a secret society is defined as being:
- "Any lodge, chapter, society, trust, regular gathering or meeting, which;
- (a) is not open to members of the public who are not members of that lodge, chapter, society, trust, regular gathering or meeting;
  - (b) includes in the grant of membership an obligation on the part of the member with a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, trust, regular gathering or meeting; and
  - (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, regular gathering or meeting."

## **9.0 Equality**

- 9.1 All employees should ensure that the Authority's Equal Opportunities Policy is complied with in addition to the requirements of the law. All members of the community and other employees have a right to be treated with fairness and equity.



## **10.0 Separation of Roles During Tendering**

- 10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or provider units must exercise fairness and impartiality when dealing with customers, suppliers, contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 10.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the appropriate manager and withdraw from the contract awarding processes.
- 10.5 Employees should ensure that no special favour is shown in awarding contracts to businesses.

## **11.0 Corruption**

- 11.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. If an allegation is made, the employee will be expected to be able to demonstrate that any such rewards have not been corruptly obtained.
- 11.2 Local Government Act 1972 – Section 117 – Interests in Contracts. This provides that if an employee knows that a contract in which the individual has a pecuniary interest is before the Authority, notice of this interest must be given to the Authority. This interest must be recorded by the Democratic Services Manager in the Register of Disclosures by Officers.

## **12.0 Financial Regulations**

- 12.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority. Actions should at all times be in compliance with the Authority's Financial Regulations and Standing Orders.

## **13.0 Gifts and Hospitality**

- 13.1 The general guidance is that, as employees in the public service, officers should question the need for gifts or hospitality. Clearly, a member of the public would rightly be suspicious of any employee who received gifts or excessive hospitality in the course of their normal working relationship.
- 13.2 A particular source of conflict between the private and public interest is the offer of gifts, hospitality and other benefits. Whatever common practice may be in the commercial world, public employment requires a standard of its own. The situations concerned are so diverse that no precise rule can cover all eventualities. The following guidance is given on that basis; however, the practice should always be to err on the side of caution.

- 13.3 Hospitality is a difficult area to define and a lot will depend on the common-sense of the employee. Generally, hospitality received as part of the need to impart information to employees in the line of their duties is acceptable, or where an officer is representing the Authority at an information gathering event. Offers of hospitality where the main purpose of the invitation is hospitality, should generally be politely declined. This would include invitations to social or sporting functions where there is no specific work related agenda or where the work element is incidental to the invitation.
- 13.4 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the Authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Authority should be seen to be represented. It must be properly authorised, and if an employee is in any doubt they should take advice from their appropriate manager.
- 13.5 When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Authority.
- 13.6 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to discussion which the Authority may be taking affecting those providing the hospitality. If there is any risk of conflict or criticism, the hospitality must be declared.
- 13.7 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable when it is clear that the hospitality is corporate rather than personal, or where the Authority gives consent in advance and where any purchasing decisions will not be compromised. Where visits to inspect equipment are required, employees should ensure that the Authority meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.
- 13.8 The rule should be that gifts, no matter how well intentioned, are not acceptable. A firm but polite refusal is rarely misconstrued by the person offering the gift.
- 13.9 Employees or their families must not accept significant personal gifts from contractors, outside suppliers, or other persons or bodies who have or who are known to be seeking dealings of any kind whatsoever with the Authority, and the fact of such an offer should be disclosed to their appropriate manager.
- 13.10 Where the gift is only of token value, e.g. an official or trade calendar or diary, it may be accepted, and in other cases where it is considered that refusal would give unnecessary offence, employees must consult their appropriate manager and take advice accordingly.
- 13.11 No employee may seek, for their own use or for the use of another person, goods or services from the Authority's suppliers and contractors as a result of their employment with the Authority.
- 13.12 Any gifts/hospitality received should be reported to the appropriate manager and recorded in a register.

#### **14.0 Sponsorship – Giving and Receiving**

- 14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic

conventions concerning acceptance of gifts or hospitality apply. Particular care must be given when dealing with contractors or potential contractors.

- 14.2 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in any way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

# Protocol on Member/Officer Relations

## Introduction

Mutual trust and respect between Members and Staff is at the heart of the Council's good governance. Both are essential if the partnership necessary for the effective and efficient running of the Council is to succeed.

## 1.0 Definitions

1.1 Unless the context indicates otherwise, references in this Protocol to the following terms shall have the following meanings:

- Member includes a non-elected i.e. co-opted member as well as elected members of the Council.
- Member body includes the Council, the Cabinet, Scrutiny and Regulatory Committees, and all other committees, sub-committees and panels described in the Constitution.
- Cabinet Member refers to the leader and other members of the Cabinet under the Council's constitutional arrangements.
- Officer means all persons employed by the Council.
- Chief Officer means the Chief Executive and the corporate directors.
- Designated Finance Officer means the Director of Corporate Resources exercising the duties prescribed by law for the financial administration of the Council.
- Member Liaison Officer means an officer who may be appointed by the Chief Executive to deal with members and their enquiries on specific matters.
- Monitoring Officer means the Director of Corporate Governance and is the officer with statutory responsibility for ensuring that the Council acts within the law and in accordance with its Constitution.
- Political Group means any formally recognised group of elected members on the Council who are either members of the same political party or independent members.

## 2.0 Scope

2.1 This Protocol is designed to:

- Promote trust, openness, fairness and honesty by establishing clear ground rules;
- Define roles so as to clarify responsibilities;

- Avoid conflict;
  - Prevent duplication or omission;
  - Secure compliance with the law, codes of conduct and the Council's own practising procedures; and
  - To lay down procedures for dealing with concerns by Members or Officers.
- 2.2 The Protocol represents the central element of the Council's corporate governance and provides the framework for dealing with a wide range of circumstances applying to relations between Members of the Council and its Officers.
- 2.3 This Protocol covers the main issues which may arise in Member/Officer relations but this is not intended to be comprehensive. Members and Officers should seek advice from the Chief Executive or the Monitoring Officer on any matter not covered by this Protocol or on issues of uncertainty.

### **3.0 Purpose**

- 3.1 Together Members and Officers combine the essential skills, experience and knowledge to manage an effective public sector organisation. Members provide a democratic mandate to the Council whereas Officers contribute the professional expertise and experience to deliver the policy framework agreed by Members.
- 3.2 Whilst collaborative working is the accepted norm for Member and Officer relations at the Council it is important to recognise and take account of their different roles. This is important for day to day interaction between Members and Officers and for the public perception of the Council by ensuring transparency between the political role of Members and the professional impartial role of Officers.
- 3.3 This Protocol is intended as a written guide on the basic elements of the relationships between Members and Officers to fulfil the purposes set out above and as a means of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation. This Protocol has been adopted by the Council in order to achieve these objectives and seeks to maintain and enhance the reputation and integrity of local government in general and this Council in particular.

### **4.0 Status**

- 4.1 This Protocol establishes a set of principles to assist members and officers to work together.
- 4.2 Members and Officers must at all times observe this Protocol.
- 4.3 This Protocol is part of the Council's Constitutional documents and its importance is recognised by its adoption by full Council at its meeting on the 25<sup>th</sup> day of February 2016 with the support of all political groups represented on the Council.

## 5.0 Principles

- 5.1 As in all effective partnerships Member/Officer relations are based on the following principles:
- Mutual trust and respect of the different roles of Members and Officers;
  - A common purpose; providing the best possible service to the residents and other stakeholders of Thanet District Council; and
  - A commitment to non-adversarial resolution of disputes.
- 5.2 At the Council mutual respect between Members and Officers is an essential part of the way we work. Conflict and challenge are inevitable and necessary parts of the democratic process in a local authority. Demonstrating mutual respect in instances where Members disagree with specific Council policies or actions demands the highest standards of personal conduct.
- 5.3 Mutual respect is based upon an understanding of the distinct contributions Members and Officers make in respect with the boundaries between those roles. A key principle for Officers is their political impartiality; they serve the whole Council and not particular groups or Members. This is particularly important for Chief Officers and other senior officers who are prevented by law from political activities beyond party membership.
- 5.4 Further some Chief Officers hold posts with mandatory statutory responsibilities notably the Chief Executive, the designated Finance Officer and the Monitoring Officer. Further information about this is provided in Article 12 of Part 2 of the Constitution. Members must respect these duties and recognise that these Officers may be required to give advice or make decisions which Members may not agree with or support.
- 5.5 Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take an early advantage by virtue of their position.
- 5.6 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Council.
- 5.7 To carry out their duties effectively, Members must have broad access to Council information. The following principles apply here:
- Members' enquiries will be dealt with promptly and effectively and within corporate timescales;
  - Members access to information will be compliant with their statutory and common law rights (see the access to information procedure in Part 4 of the Constitution);
  - Officers will not without good reason, withhold information from a Member who is entitled to receive it;

- Where confidential, personal or otherwise sensitive personal information is provided to a Member that Member will not disclose it to any other person, without authorisation.

5.8 The Council has adopted a code of conduct for Members which is set out in Part 5 of the Constitution and an employee code of conduct which is also set out in Part 5. The Members’ code follows the general principles governing Members’ conduct enshrined in law. These are:

- Selflessness – serving only the public interest;
- Integrity – not allowing these to be questioned;
- Objectivity – taking decisions on merit;
- Accountability – to the public, being open to scrutiny;
- Openness – giving reasons for decisions;
- Honesty – acting in a proper manner
- Leadership – acting in a way which has public confidence.

5.9 The same principles underpin this Protocol and also underpin the code of conduct for officers.

5.10 Until such time as a new national code appears Officers are bound by the Council’s own employee code of conduct and in some cases by the codes of their professional association.

## 6.0 Roles

A quick guide to Member and Officer roles:-

<b>Members</b>	<b>Officers</b>
Democratically elected and accountable to the electorate	Employees accountable to the Council
Community leader for their ward and the district as a whole	Serve the whole Council
Add a political dimension And may take a role as Cabinet member	Impartial
Set policy and strategy	Ensure operation delivery and provide advice
Bound by a statutory code of conduct	Bound by their contract of employment
Involved in Chief Officer appointments only	Day to day management of staff

## **6.1 The role of Members**

- 6.1.1 Members have a number of different roles and need to be alert to the potential for conflicts of interest which may arise between them. Where such conflicts are likely and Members may wish to seek the advice of senior colleagues, the Chief Executive, and/or the Monitoring Officer.
- 6.1.2 Collectively Members are the ultimate policy-makers, determine the core values of the Council and approve the Council's policy framework, strategic plans and budgets.
- 6.1.3 Members represent the community, act as community leaders and promote the social, economic and environmental wellbeing of the community often in partnership with other agencies.
- 6.1.4 Every elected member represents the interests of his or her ward and individual constituents. He or she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies and often serves on local bodies.
- 6.1.5 Members are responsible for the decisions taken by Member bodies upon which they sit.
- 6.1.6 Some members may be appointed to represent the Council on local, regional or national bodies.
- 6.1.7 As politicians, elected members will make statements that are representative of the political groups to which they belong.
- 6.1.8 The role of opposition members in offering alternative policies and holding the administration group to account will inevitably involve those members in challenging decisions and care should be taken to ensure that such challenge is directed at the Cabinet Member concerned and not at officers who are charged with implementation.

## **6.2 The role of Officers**

- 6.2.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles, in doing so Officers will take into account all available relevant factors.
- 6.2.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, committees and sub-committees), Officers manage and provide the Council services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 6.2.3 Officers have a duty to implement lawful decisions of the Member bodies which have been properly approved in accordance with the requirement of the law and the Council's Constitution and duly minuted.
- 6.2.4 Officers have a contractual and legal duty to be impartial as well as to place their skill and judgement at the disposal of the Council; they must not allow their professional judgment and advice to be influenced by their personal view.
- 6.2.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities and in the best interests of the Council.



- 6.2.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public and advise accordingly.
- 6.2.7 Officers have the right not to support Members in any role other than that of an elected councillor, and not to engage in actions incompatible with its Protocol. In particular there is a statutory limitation on Officers' involvement in political activities from those Officers employed in politically restricted posts.

## **7.0 Conduct**

### **7.1 Attitude and Behaviour**

- 7.1.1 The conduct of Members and Officers should be such as to instil mutual confidence and trust.
- 7.1.2 The key elements are recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other both publicly and privately.
- 7.1.3 Members should be aware that Officers are constrained in the response they may make to public comments from Members. Members should not criticise Officers personally in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces the right of Members to criticise, in a constructive manner, the report or actions of a department or section of the Council where they believe such criticism is well-founded.
- 7.1.4 Discussions and correspondence between Members and Officers should at all times be well-mannered and professional.
- 7.1.5 Informal and collaborative two-way contact between Members and Officers is encouraged, but over familiarity can damage the relationship as might a family or business connection.
- 7.1.6 Members and Officers should inform the Chief Executive or Monitoring Officer of any personal relationship between each other which might be seen as unduly influencing their work in their respective roles.
- 7.1.7 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed those concerned should avoid a situation where conflict could be perceived. Specifically a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
- 7.1.8 Members of staff should not discuss with a Member inappropriate personal matters concerning themselves or another individual employee. This does not prevent them raising on a personal basis and in their own time a Council service related matter with their ward Member.
- 7.1.9 Members and Officers should respect each other's free (i.e. non-Council) time.

## 7.2 Conduct of scrutiny reviews

- 7.2.1 The Chairman of the ~~Overview and~~ Finance, Budget and Community Safety Scrutiny Panels should maintain regular contact with the Officers providing the principal support to the overview and scrutiny function staff in consultation with the Chairman. It should be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 7.2.2 The ~~Finance, Budget and Community Safety Overview and~~ Scrutiny Panel or its Chairman acting on its behalf may require Officers to attend scrutiny meetings. Members should not normally expect junior officers to give evidence but directors of services will be expected to comply with the (scrutiny procedure rules). All requests should be made to Chief Officers in the first instance.
- 7.2.3 When making requests for Officer attendance, scrutiny members shall have regard to the work load of Officers.
- 7.2.4 It is recognised that Officers appearing before the Finance, Budget and Community Safety Scrutiny Overview and Scrutiny Panel may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. In these circumstances an Officer may have a conflict of interest although not a personal interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate research and advice may be sought elsewhere.
- 7.2.5 Subject to the provisions of 7.2.4 Officers should be prepared to justify advice given to a Member body even when the advice is not accepted.
- 7.2.6 Officers must also be prepared to justify decisions they have taken under delegated powers.
- 7.2.7 In giving evidence Officers must not be asked to give political views.
- 7.2.8 Officers should respect Members in the way they respond to Member's questions.
- 7.2.9 Members should not question Officers in a way that could be interpreted as harassment neither should they ask about matters of a disciplinary nature.
- 7.2.10 Scrutiny proceedings must not be used to question the capability or competence of Officers. Chairman and Members need to make a distinction between reviewing the policies and performance of the Council in its services and appraising the personal performance of Officers. The matter is not an overview and scrutiny function.
- 7.2.11 In exercising the right to call in a decision of the Cabinet scrutiny Members must seek Officer advice if they consider the decision is contrary to the Council's approved budget or policy framework or is unlawful.

## 8.0 Decision making and matters specific to Cabinet business

### 8.1 Roles

- 8.1.1 Cabinet Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Directors will be responsible for instructing staff to implement the Cabinet's decisions.

- 8.1.2 Cabinet members are responsible for providing leadership and direction on policy matters. Day-to-day managerial and operational decisions on the delivery of services should remain the responsibility of the Chief Executive and other officers.
- 8.1.3 Cabinet members will routinely be consulted as part of the process of drawing up proposals for consideration on an agenda for a forthcoming meeting, but it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Director or senior officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between a Cabinet member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.
- 8.1.4 In addition to individual Members of the Cabinet, the Chief Executive, Directors (including the Section 151 Officer) and the Monitoring Officer have the right to submit papers to the Cabinet as a whole or to individual Cabinet Members for consideration.
- 8.1.5 Before any formal decisions are taken by the Cabinet, the Section 151 Officer and the Monitoring Officer and the Director(s) of the service involved must be consulted. This is to ensure that budget holders are aware of the proposed decision, that the decision's legal implications can be considered, that the opportunity to offer advice has been identified, and that officers are subsequently able properly to authorise the various financial and legal transactions and requirements needed to implement decisions.
- 8.1.6 The Chief Executive, Directors and Cabinet Members shall agree mutually convenient methods of regular contact including regular meetings between Cabinet Members and the Directors of their respective portfolio areas, and/or any other appropriate method which complies with law and the Constitution. Before taking any formal decisions, the Cabinet will seek appropriate professional advice including, without exception, the Chief Executive, the Monitoring Officer and Section 151 Officer (or their deputies in their absence), and will not direct Officers in the framing of recommendations.
- 8.1.7 When formal advice is given by the Chief Executive, Monitoring Officer and/or the Section 151 Officer in the furtherance of their statutory duties, Members should be expected to follow it. However, it is recognised that circumstances may arise where they may wish to ignore such advice. Members may make decisions contrary to the advice of officers generally, and Statutory Officers in particular, but should note the following:
- (a) Decisions so made may be in breach of the Council's legal duties, particularly the Public Sector Equality Duty;
  - (b) Decisions may have unforeseen, negative consequences on the local community, which officers may not have had an opportunity to consider in advance of a decision being made contrary to their advice;
  - (c) Even where a decision made by Members contrary to officer advice is not contrary to legislation, it could still render the Council subject to successful legal action, further to a judicial review, action for breach of contract or action for negligence, or all three;

- (d) Such successful action could make the Council liable for damages (whose quantum may not, at the point of decision, be apparent) and against which the Council may not be insured;
- (e) Such successful action would result in reputational damage to the Council and a broken relationship of trust with any person adversely affected by the decision.

8.1.8 Where, notwithstanding the above, Members wish to make a decision contrary to advice, all correspondence relating to the decision must be transacted in writing, including the officer advice itself and the reasons given by Members for acting against it.

## **8.2 Decisions by individual members**

8.2.1 An individual Cabinet Member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are informed. There is a particular requirement to involve other Cabinet Members on cross-cutting issues.

8.2.2 Executive Members when making decisions must state the reasons for those decisions in the written record.

## **8.3 Decisions made by officers under delegated powers**

8.3.1 Officers taking decisions under their delegated powers must exercise their judgement and consult with the relevant Cabinet Member (s) in advance when the matter to which the decisions relate are likely to be sensitive or contentious, where the Officer considers that the decision may have wider policy implications, or where the Cabinet Member (s) has/have previously informed the Officer that particular decisions or classes of decisions may have such implications.

8.3.2 Officers are responsible for implementing Member decisions and in the case of Cabinet decisions Chief Officers will be responsible for instructing staff to implement decisions.

8.3.3 Apart from the formal decision making process, Officers work to the instruction of their managers and not individual members. Officers will try to comply with all reasonable requests from Members but Members cannot instruct Officers to do any piece of work or take any course of action.

8.3.4 Officers must observe the requirements set out in the officer delegations in Part 3 of the Constitution when taking decisions and ensure that decisions falling outside it are referred to the appropriate Member body for decision unless action is to be taken under standing order?

8.3.5 When taking decisions under their delegated powers Officers should be aware of decisions which are likely to be sensitive or contentious. In such cases Officers should inform the relevant Cabinet Member(s) and where appropriate ward Members of their intentions in advance.

8.3.6 Officers should also keep Cabinet Members informed in advance of any decisions which they take that have wider policy implications.

8.3.7 While Officers will support, advise and respond to Members' requests they must not be asked to exceed the bounds of authority they have been given by their manager.

#### **8.4 Decisions affecting Council staff**

8.4.1 The role of Members in employment matters are limited to:

- Determining significant human resources policies and conditions of employment;
- The appointment and discipline of Chief Officers;
- Hearing and determining appeals.

8.4.2 Members shall not act outside these roles.

8.4.3 Officers are responsible for the appointment and discipline of all other Officers.

8.4.4 In participating in the appointment of Chief Officers, Members should:

- Respect the confidentiality of the process and in particular the identity of the candidates.
- Remember that the sole criterion is merit;
- Never canvass support for a particular candidate;
- Not take part where one of the candidates is a close relative or friend;
- Not be influenced by personal preferences; and
- Not favour a candidate by giving them information not available to the other candidates.

8.4.5 Officers will not seek any Members' support in any employment matter.

8.4.6 When discussing or making decisions about industrial relations matters, Members must remember that they represent the Council as an employer and are not a representative of the employees. If a Member considers that they cannot undertake this task from this perspective they should withdraw from this role.

#### **9.0 Support for Members**

##### **9.1 Members' enquiries and access to Officers**

9.1.1 Members enquiries may be made by any means including verbally, email or in writing.

9.1.2 Members should normally direct their requests and concerns in relation to policy, spending and other major issues to the relevant Director in the first instance. Failure to do so would have the effect of depriving Members of formal, informed and accountable advice they have a right to expect from senior officers and which they have a duty to consider.

- 9.1.3 Approaches by Members to other Officers, are proper when they are seeking clarification of a response from that Officer or where the nature of the enquiry is routine and requires a detailed knowledge of the issues.
- 9.1.4 Members' enquiries will be dealt with promptly and effectively. A substantive response to a Member enquiry should be sent within ten working days of receipt.
- 9.1.5 Officers receiving Member enquiries should ensure that if they are absent or unavailable for more than one working day that their email is checked by a colleague. Out of office email replies should always give an alternative contact.
- 9.1.6 If it is not possible to respond within ten working days, Officers must explain in writing:
- The reason for the delay;
  - What action is being taken to pursue the enquiry; and
  - A deadline by which a substantive response will be sent.
- 9.1.7 Members' enquiries which are in fact constituent complaints will be handled under the Council's complaint procedure.
- 9.1.8 The Chief Executive and corporate directors are responsible for ensuring that Member enquiries are dealt with promptly and accurately by the department.
- 9.1.9 In seeking to deal with constituent's queries or concerns Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale and may need to seek instructions from their manager. Where an enquiry imposes a disproportionate burden on Officers' workloads, this should be explained and discussed with the Member concerned and Chief Officers to agree an alternative deadline or response.
- 9.1.10 This Members' enquiry procedure supplements but does not replace Members' statutory and common-law rights to information.
- 9.1.11 Co-opted and independent Members' rights to access to information will be limited to those areas that fall within the remit of the body to which they are appointed and their statutory rights.
- 9.1.12 An Officer should not copy correspondence which they have had with a Member to any other Member unless:
- That Member agrees; or
  - The other Member is entitled to the information under the Freedom of Information Act 2000 or the Data Protection Act 1998; or
  - The correspondence from the Member includes a circulation list with other Members' names on it when the response can be copied to the persons on the list; or

- A response has been given to a question raised at a meeting of a Member body when the response can be copied to other Members.
- The above does not prevent an Officer copying correspondence to other Officers unless there are confidentiality issues.

A member may copy correspondence which they have had with an Officer to other Members and third parties unless it contains confidential personal or otherwise sensitive information. For the avoidance of doubt correspondence containing such information should state that it is confidential.

## **9.2 Briefings for political groups**

- 9.2.1 Chief Officers may be asked to contribute to deliberations of matters concerning Council business by political groups.
- 9.2.2 Chief Officers have the right to refuse such requests and will normally not attend a meeting of a political group where some of those attending are not Members of the Council.
- 9.2.3 Officer support will not extend beyond providing the factual information or professional advice in relation to matters of Council business. Chief Officers must not be involved in advising on matters of party business and therefore should not be expected to be present at meetings or parts of meetings where such matters are to be discussed.
- 9.2.4 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of a Chief Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 9.2.5 Where Chief Officers provide factual information and advice for a political group in relation to a matter of Council business this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 9.2.6 It must not be assumed that a Chief Officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.
- 9.2.7 Chief Officers will respect the confidentiality of any political group discussions at which they are present and unless requested to do so by that political group will not relay the contents of such discussions to another party group or to any other Member. This shall not prevent a Chief Officer providing a feedback to other Chief Officers.
- 9.2.8 In their dealings with political groups Chief Officers must treat each group in a fair and even-handed manner.
- 9.2.9 Members must not do anything which compromises or is likely to compromise Chief Officers' impartiality.
- 9.2.10 A Chief Officer accepting an invitation to the meeting at one political group shall not decline an invitation to advise another group about the same matter. They must give consistent advice to each.

- 9.2.11 Only a Chief Officer or their nominee shall be entitled to attend a political group meeting.
- 9.2.12 A Chief Officer should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- 9.2.13 No Member will refer in public or at meetings of the Council to advice or information given by Chief Officers to a political group meeting.
- 9.2.14 At political group meetings where some of those present are not members of the Council care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

### **9.3 Access to information**

- 9.3.1 To carry out their duties effectively, Members must have broad access to Council information. This is a complex area which is subject to a wide range of legislation as well as the common law and the detailed rules are set out in the access to information procedure rules in Part 4 of the Constitution. The remainder of this section deals with some specific points.
- 9.3.2 Members' access to information will be compliant with their statutory and common law rights.

The common law right of Members is based on the principle that any Member has a prima facie right to inspect Council documents as far as their access to the documents is reasonably necessary to enable them to perform their duties as a Member of a Council. This principle is commonly referred to as the "need to know" principle.

The exercise of this common law right depends therefore upon the Members' ability to demonstrate that they have the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Chief Officer whose department holds the document in question (with advice from the Monitoring Officer).

In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms.

- 9.3.3 Officers will not without good reason withhold information from a Member who is entitled to receive it.
- 9.3.4 Any disputes relating to access to information will be referred to the Monitoring Officer for determination.
- 9.3.5 Where confidential personal or otherwise sensitive information is provided to a Member they will not disclose it to any other person without authorisation.



## **9.4 Use of Council resources**

9.4.1 The Council provides all Members with services such as photocopying and computer equipment to assist them in discharging their role as Members. These are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

9.4.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources particularly:

- Where facilities are provided in Members' homes at the Council' expense and regarding ICT; and
- Regarding ICT use and security.

9.4.3 Members should not put pressure on Officers to provide resources or support which Officers are not permitted to give. Examples are:

- Business which is solely to do with a political party;
- Work in connection with a ward or constituency party political meeting;
- Electioneering;
- Work associated with an event attended by a Member in a capacity other than as a Member of the Council;
- Private personal correspondence;
- Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council; and
- Support the Member in their capacity as a councillor for another local authority.

## **10.0 Public relations**

### **10.1 Relations with the media**

10.1.1 The Media and Communication Team is responsible for:

- Making official press/media statements relating to the function and business of the Council, consulting with the relevant Cabinet Member, Committee Chairman or Officer as appropriate; and
- Dealing with day-to-day media enquiries.

In making a press or media statement regard must be had to the law on Local Authority publicity and the relevant code of practice.

10.1.2 Cabinet Members and Committee Chairman may also make statements to the press/media on Council matters and they represent the Council in media interviews. If a Cabinet Member or Committee Chairman wants to speak to the press or media in

a personal capacity or as a representative of their political group they should make this clear at the outset.

10.1.3 If other Members wish to speak to the media they will do this in a personal capacity or as a representative of their political group.

10.1.4 Chief Officers (or their nominees) may deal with any request for information or questions asked by the press/media and may represent the Council in media interviews.

10.1.5 Any Member or Officer who speaks to the press or media on an issue should:

- Consult with the Communications Team for the Council in advance of speaking to the press or to the media;
- Be sure of what they want to say or not say;
- Consider the likely consequences for the Council of their statement;
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter;
- Consider whether to consult other relevant members; and
- Take particular care in what is said in the run-up to local or national elections to avoid giving the impression of electioneering unless they have been contacted as an election candidate or political party activist.

10.1.6 Press releases or statements made by Officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

10.1.7 Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.

10.1.8 Likewise Officers will inform the Council's communication and media section of issues likely to be of media interest when they have been contacted by the media since that unit is often the media's first point of contact.

## **10.2 Correspondence**

10.2.1 Correspondence between an individual Member and an Officer should not be copied to another Member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied this should always be made explicit and there should be no "blind" copies.

10.2.2 Official letters written on behalf of the Council should normally be in the name of the relevant Officer.

10.2.3 The Leader may initiate correspondence in their own name.

10.2.4 Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.

10.2.5 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

10.2.6 Correspondence between Members and staff should reflect mutual trust and respect which is essential to the relationship.

## **11.0 What to do when things go wrong**

### 11.1 Procedure for Officers

From time to time the relationship between Members and Officers may become strained or break down. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or Members, Officers will have recourse to the Council's Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of the basis for a grievance or complaint being found, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will refer it to the Standards Committee for consideration and determination.

### 11.2 Procedure for Members

In the event that a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Head of Service. Where the Officer concerned is a Head of Service or Director of Service the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with the Director of Corporate Resources. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure and, where appropriate, act in accordance with a report of a "designated independent person" (see Prescribed Standing Order 10).

# Working Protocol on Member Briefings, Enquiries, Contact and Correspondence

## 1.0 Introduction

- 1.1 The relationship between Councillors and officers is an essential ingredient that is at the heart of the successful working of the organisation. This relationship within the authority is characterised by mutual respect, informality and trust. Councillors and officers should feel free to speak to one another openly and honestly. Nothing in this Protocol is intended to change this relationship. The purpose of this Protocol is rather to help Councillors and officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. These obligations are set out in the Council's approved Code of Conduct for Members and for officers.
- 1.2 The approved Protocol on Member/ Officer relations also gives guidance on what to do on the rare occasions when things go wrong. All Members and officers should operate in compliance with the protocol. Responsibility for upholding the protocol rests with Group Leaders in relation to elected Members and with the Chief Executive in relation to officers.
- 1.3 This Protocol seeks to provide additional clarification at a practical level to working procedures that will operate, following the election of a new Council in May 2007. It specifically seeks to set out a framework for key areas of work and interaction between senior officers and Members.
- Planning of Council business
  - Enquiries and complaints
  - Correspondence
  - Briefing meetings
  - Media relations
  - Public meetings
  - Notification of Ward Members
- 1.4 Operation of this Working Protocol will be reviewed and any concerns of officers and/or members will be discussed between Group Leaders.
- 1.5 There are 56 Councillors in Thanet, representing a ratio of almost 1 Councillor to 10 Members of staff. The Management Team now comprises just nine senior officers. Hence, the need for a clear understanding of frameworks which make working arrangements productive and workable.

## 2.0 Councillors' Roles

Councillors have four main areas of responsibility:

- (a) Determining the policy of the authority and giving it political leadership
- (b) Monitoring and reviewing the performance of the authority in implementing that policy and delivering services
- (c) Representing the authority externally, and

- (d) Acting as advocates on behalf of their constituents.

It is not the role of Councillors to involve themselves routinely in the day to day management of the authority's services.

## 2.1 Members of the Cabinet, Chairmen and Vice-Chairmen

Members of the Cabinet and Chairmen and Vice-Chairmen of Committees and other bodies have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and be more complex than those of Councillors without those responsibilities, and this is recognised in the expectations they are entitled to have. However, such Councillors must still respect the impartiality of officers, must not ask them to undertake work of a party political nature, or to do anything which would put them in difficulty in the event of a change in the political composition of the authority.

## 2.2 Opposition Councillors

As individual Councillors, all Councillors have the same rights and obligations in their relationship with officers and should be treated equally. This principle is particularly important in the context of the work of [the Overview and Scrutiny Panels](#). However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship and degree of contact between officers, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

Opposition Spokespersons are specifically recognised under Thanet's Constitution and receive a Special Responsibility Allowance and are therefore entitled to appropriate consideration and briefing arrangements. They are also expected to operate within accepted frameworks and working arrangements agreed by the Council.

## 2.3 Officers

The role of officers is to give advice and information to Councillors and to implement the policies determined by the authority.

In giving such advice to Councillors, and in preparing and presenting reports, it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the views of individual Councillors on an issue, if the Councillor wishes to express a contrary view he/she should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

Certain officers e.g. Chief Executive, Monitoring officer and Section 151 officer have responsibilities in law over and above their obligations to the authority and to individual Councillors, and Councillors must respect these obligations, must not obstruct officers in the discharge of these responsibilities, and must not victimise officers for discharging these responsibilities.

## 3.0 Expectations

### 3.1 Councillors can expect from officers:

- (a) A commitment to the authority as a whole, and not to any political group
- (b) A working partnership

- (c) An understanding of and support for respective roles, workloads and pressures
- (d) Timely response to enquiries and complaints
- (e) Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
- (f) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- (g) Awareness of and sensitivity to the political environment
- (h) Respect, dignity and courtesy
- (i) Training and development in order to carry out their role effectively
- (j) Integrity, mutual support and appropriate confidentiality
- (k) Not to have personal issues raised with them by officers outside the agreed procedures
- (l) That employees will not use their relationship with Councillors to advance their personal interests or to influence decisions improperly
- (m) That officers will at all times comply with the relevant Code of Conduct
- (n) Support for the role of Councillors as the local representatives of the authority

### 3.2 Officers can expect from Councillors:

- (a) A working partnership
- (b) An understanding of and support for respective roles, workloads and pressures
- (c) Political leadership and direction
- (d) Respect, dignity and courtesy
- (e) Integrity, mutual support and appropriate confidentiality
- (f) Not to be subject to bullying or to be put under undue pressure. Councillors should have regard to the seniority of officers in determining what are reasonable requests, having regard to the power relationship between Councillors and officers, and the potential vulnerability of officers, particularly at junior levels
- (g) That Councillors will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly
- (h) That Councillors will at all times comply with the relevant code of Conduct

## 4.0 Key areas of contact and Communication

### 4.1 Forward planning of Council business

The Council's main items of business and decision making will be properly ordered and made known to all members in good time. Published agendas will, as far as

possible contain all agenda papers, with reports only being circulated late for good reason. The key planning documents available to Members via the Members' Portal will include: -

- **The Forward Plan** – The Forward Plan sets out and anticipates Cabinet's consideration and decision on important matters facing the Council and the Community. The Leader of the Council, Deputy leader and the Chief Executive will meet regularly to review and update this document as a basis for programming the Council's core work programme. The Forward plan will be discussed with the Chairman of ~~the Overview and Executive, Policy & Community Safety~~ both Scrutiny Panels and placed on the agenda for each Panel meeting for consideration by all Members of the Panel. It will be updated on a monthly basis and will be published on the Member Portal.
- **Agenda Running lists** - In addition to the Forward plan, the above Group will review agenda running lists for Cabinet and Scrutiny meetings. The advance lists will be published on the Member Portal at least one week before the final agenda and reports are published and on the Council's web site. Any Member of the Council may request information as to the purpose of an item on an advance list for a public meeting of the Cabinet, an Overview and Scrutiny Committee, Regulatory Committee, the Standards Committee or other Body from the appropriate Director or Head of Service. Officers will need to decide whether this can best be dealt with by discussion, a written briefing note or a meeting. Copies of any information issued to other Members will be supplied to the Chairman of that body.
- **Overview and Scrutiny Work Plan** – The Overview and Scrutiny Panels will prepare, progress and report on an Annual Work programme. This will aim to address key issues facing the Council; such as critical investment decisions, performance issues and Value for Money.

#### 4.2 Responding to Enquiries and Complaints from Councillors/Members of Parliament/Members of the European Parliament

##### (a) Response Times

Enquiries, correspondence and complaints from Members and Members of Parliament will be acknowledged promptly, and in any event within three working days. Where possible, an indication of response time will be given. A full reply will normally be sent within ten working days.

An immediate response to complaints or enquiries will frequently not be possible because of the need to collect information or to consult other officers or services. The following stages recognise that different circumstances can delay the sending of full replies but require that Members/MPs/MEPs/GLA Members are kept informed of their enquiries being dealt with.

Whilst a full reply should be sent within ten working days, if this should not prove possible, then an interim reply should be sent. This should explain why it is not possible to give a full reply e.g. need for research, obtaining information from another department/section etc, and should state when it is expected that a full reply will be sent. Members should be aware that some, particularly more complex matters involving assembly of information across services and partners may take longer to deal with.

In submitting enquiries Members are requested to make clear to whom the enquiry has been sent and not to submit multiple enquiries on the same subject.

**The same rules and response times should apply to e-mail**

**(b) Circulation of replies to correspondence/enquiries**

Copies of officers' replies will be circulated to other Members and officers in the following circumstances:

<b><i>If the original is sent to:</i></b>	<b><i>A copy will be sent to:</i></b>
1. Any Councillor on a subject which is: (a) controversial (b) politically sensitive (c) involves criticism of Members/officers (d) relates to any item which has or may come to the Cabinet (e) relates to any item which may directly involve a Cabinet Member.	Leader of the Council and Chief Executive/Director  As in (a) - (c) above plus all Cabinet Members  As in (a) - (c) above plus the relevant Cabinet member and other Cabinet Member(s) within his/her service area (if this is felt to be relevant to their area(s) of responsibility - copies of routine correspondence will not need to be copied to the other member(s)) within the service area
2. A Member of an Overview and Scrutiny, Regulatory Committee, the Standards Committee or other Body on a matter which has been discussed or is likely to be to be brought before that body, or relates to the business of the body and which relates to policy issues/development or matters of a sensitive nature.	As in (a) - (c) above plus the relevant Cabinet Member(s), and the Chairman of that Committee/ Panel. This requirement shall not apply to non-sensitive or purely operational matters.
3. The Chairman of an Overview and Scrutiny, Regulatory Committee, the Standards Committee or Other Body on a matter which relates to policy issues/development or matters of a sensitive nature.	Cabinet Member(s) if likely to be relevant to that Member's area of responsibility. This requirement shall not apply to non-sensitive or purely operational matters.
4. The Leader of a political Group	Chief Executive
5. MP's / MEP's / GLA Member	Leader of the Council, appropriate Cabinet Member(s) and Chairmen of Committees and Chief Executive

*Note: Correspondence which has been copied to other Members should be endorsed to indicate who has received copies. Matters personal to an individual Member should not be copied to other Members. Members receiving copies of correspondence should treat this as "privileged" information and should not refer to such information if the subject of the correspondence is discussed at any meetings unless the primary recipient of the correspondence first makes reference to its contents. Correspondence concerning routine business matters and Ward issues and routine case work or on behalf of constituents shall not be copied to other Members unless covered by category 1 above. Correspondence with Members seeking*



*information or advice to develop policy proposals on behalf of their Group should not be disclosed to other Groups but treated as confidential in the same way as information discussed at ad hoc briefings.*

*For the purposes of these Working Conventions the same rules will apply to emails as for all other forms of written correspondence.*

*It may be appropriate to include the Leader of the Opposition and Leader of the Independent Group in circulation under 1 (a)-(c), depending on the issue.*

### **(c) Confidentiality**

Correspondence marked Private and Confidential must be treated as such. If any Member feels that there is a need to disclose a Private and Confidential item to third parties or in a public meeting, they must advise the author of the item immediately. Failure to do so will amount to a breach to the Code of Conduct.

In addition, exchanges not marked Private and Confidential should not be considered automatically capable of public disclosure and distinctions should be drawn between policy, ward, probity or personal advice. In general terms it is felt to be good practice to check with the sender of correspondence before disclosing correspondence to third parties, particularly the press or other media. This is particularly so in relation to personal advice to Members from officers from the Chief Executive, Monitoring Officer or Section 151 Officer.

## **4.3 Scheduled and Ad Hoc Briefing Meetings**

This aspect of the Protocol is based on the principle that an officer's duty is to all Members of the Council as a single corporate body irrespective of their political persuasion and whether they are carrying out Executive or Overview and Scrutiny functions. Officers have therefore to provide information, offer advice and give assistance in the formulation of policy proposals impartially to all political groups who request such information, advice and assistance. Briefings by officers will occur both within and outside the formal decision making process.

### **(a) Facility for Scheduled Briefing for Leader of the Opposition Group / Opposition Spokespersons**

Opposition Spokespersons will be offered the facility of a regular, scheduled 2-hour monthly briefing by the relevant Director and/or Head of Service. This briefing is intended to: -

- Discuss key issues within portfolio and policy implications of any published reports
- Discuss progress on key Corporate Plan items and progress against associated projects and Project plans that will appear in the Corporate Performance Pack
- Discuss details contained in the relevant Performance Pack(s). These will be issued to Opposition Spokesperson a month 'in arrears'
- Identifying major issues likely to emerge at meetings in the next month or so.
- Any other relevant issues identified by the Leader/Spokesperson and notified in reasonable time
- Scheduled Briefings will not discuss detail of policy under development by the Executive, unless specifically authorised by the Cabinet Member

Opposition Spokespersons are requested to ensure that demands for information outside this forum are realistic and measured. Operation of this arrangement will be

reviewed and any concerns of officers and/or Members will be discussed between Group Leaders. Critical to the success or otherwise of these arrangements is the manner in which information is used.

In addition to the agenda briefing arrangements above, the Leader of the Opposition, Group Spokespersons may request a private and confidential briefing from the Chief Executive or the appropriate Director/Head of Service on matters of policy which have already been or may be discussed by the Council or the Cabinet. Officers will maintain strict confidentiality in respect of matters discussed with Members at such briefings and will not divulge information to any other party Group.

## **(b) Agenda Briefing Meetings**

### **Cabinet Meetings**

The Leader of the Council may ask for a briefing for himself and/or Cabinet members from the Chief Executive, appropriate Director or Head of Service. This is in addition to the rights of any Cabinet Member to seek guidance and advice from appropriate officers.

### **Regulatory Committees and the Standards Committee**

Prior to the despatch of any agenda of a Regulatory Committee or of the Standards Committee a briefing meeting will be arranged on a date and time agreed with the appropriate Chairman and Vice-Chairman. Copies of the draft agenda and reports for discussion at briefing meetings will be sent only to the Members invited to attend as set out above.

### **Overview and Scrutiny Panels**

Agenda briefings will be provided for the Chairman and Vice-Chairman of Overview and Scrutiny Panels, who may involve other Members if relevant to items under review ~~or the reports of Working Groups~~. They may also seek advice from the relevant Corporate Director or Head of Service where they feel this may assist in programming the business of the meeting and briefings from the appropriate Director or other senior officer on major reviews and other items coming before the Panel.

## **(c) Briefing for and attendance at Party Groups**

The Leader of the Council or Leader of the other political Groups represented on the Council may ask the Chief Executive or relevant Director/Head of Service to give or arrange a briefing for the party Group on a matter of relevance to the Council.

Any briefing offered to or requested by a party Group will be offered to the other Party Groups. Where possible such briefings should be to all or a combination of Party Groups. When briefings are held without all party groups being represented, officers will maintain strict confidentiality in respect of comments made by Members during the briefings and will not divulge them to other party Groups.

No officer of the Council shall attend any political Group meeting which includes non-Council members.

#### 4.4 Media Relations and Press Releases

The Council's Press Office deals with all the Council's corporate press relations, including issuing of press releases about the Council's work and responding to press enquiries. The Press Office ensures that the reputation of the Council and its members is protected and also ensures the government's Code of Recommended Practice on Local Authority Publicity is met.

This recognises that "local authorities need to tell the public about services which they provide" and that "good, effective publicity, aimed at improved public awareness of a council's activities is to be welcomed". It states that it is inappropriate for public resources to be used to publicise individual councillors, but goes on to state:

*"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals."*

All press releases issued by the Council are approved by the relevant officer, to ensure factual accuracy, and the relevant Cabinet Member, who will usually be quoted. The exception to this is in the period prior to elections, when approvals are only sought from officers and only officers are quoted. Press releases are not produced by the Council's Press Office about the work of individual members.

All press enquiries into the Council are directed to the Press Office. They are then logged into a database, which provides an important record, should there be any issues with misinformation. No Member, who is representing the Council at a corporate level, should speak directly to the press about a corporate issue without first speaking to the Press Office. This helps to protect the Council's corporate reputation and ensures that the Council gives out a consistent message and the Council has a record of what is being said to the media.

The Press Office is available to offer advice to any Member, who is contacted by the press, about a corporate issue. Members frequently contact the Press Office before responding to a journalist's call and this approach often allows the Press Office to brief them about the stories the media may be calling about.

All responses to enquiries and letters to the press on policy matters are issued in the name of the Leader or relevant Cabinet Member, except in the period prior to elections.

If enquiries come into the Press Office that are judged to be "political", the journalist will be asked to contact Members of the individual parties directly. Equally, if

Members approach the Press Office with requests for publicity that are deemed to be political, they will be asked to speak to a journalist directly.

At Thanet Council, Councillors usually speak on behalf of the Council. Cabinet Members will talk on their portfolio, while the Chairs of the Planning Committee, Licensing Board and Scrutiny Panels may also be called upon to speak to the media on issues that come before their Committees and Panels. The Chairman of the Council may also speak to the media on civic matters.

Council officers may be called upon to do interviews on behalf of the Council. These include:

- When Councillors specifically request that an officer should do an interview.
- When Councillors are unavailable and an interview has to be given on a positive story or the Council will lose the opportunity for some good publicity.
- In the period prior to elections.
- When a major emergency is declared.

Photo opportunities are usually arranged with the relevant Cabinet Member and may involve any combination of the following: relevant officers, Ward Member, Chairman or Mayors, depending on the individual story. No Member should arrange a photocall with the press that involves a Council officer without first involving the Press Office.

For more information about media handling, please contact the Council's Press Office on 01843 577034 or e-mail [press.office@thanet.gov.uk](mailto:press.office@thanet.gov.uk)

#### 4.5 **Public meetings**

Requests for officer attendance at significant public or high profile residents meetings will be notified to Cabinet Members. Ward Councillors will be notified of Public Meetings and of significant events taking place in their Ward. In return, Ward Councillors are requested to ensure that due notice is given of meetings at which Officer and/or Cabinet Member presence is desired. Where such meetings relate to significant policy or sensitive issues, the Cabinet Member should determine attendance in discussion with Senior Officers.

#### 4.6 **Notification of Ward Members on Ward matters**

Open meetings, consultation meetings and significant events taking place in wards should be made known to ward Councillors. They should be invited to such events and, in dealings with local groups, officers should seek, as far as possible, to respect the representational role that Councillors have in their ward.

# ~~Pilot Scheme for~~ Public Participation at Overview & Scrutiny ~~Panel~~ Meetings

## **Introduction**

~~This scheme will initially be on a trial basis between 16 August 2016 and 14 February 2017. At the end of the trial period Full Council will consider a report and decide whether to extend the trials to cover additional committees for another time limited period or discontinue the scheme.~~

## **Procedure Rules Explained**

You may speak at all meetings of the two Overview & Scrutiny Panels ~~and its sub committees~~, within the prescribed limits and as advised by the Chairman of the relevant Panel. It should be noted that all other meeting procedure rules for conducting an orderly meeting apply.

## **Who can speak?**

Any member of the public can speak, provided they are present at the meeting when the Chairman of the meeting calls their names.

## **How much time will speakers be allowed?**

A total of six minutes will be allocated to public speaking for each item on the agenda with individuals limited to three minutes each. Only two people can speak on an item. The public speaking will occur immediately after the Chairman has moved to the relevant item and before the Panel starts to consider that item.

Time is limited, so we encourage the appointment of spokespersons to represent groups of people who wish to make similar points.

## **Can I speak on any matter?**

No. Speakers will be allowed to speak only on matters that appear on the Agenda of the ~~Overview and Scrutiny~~ Panel ~~or any of its sub committees~~ in question, once such agendas are made public. No public speaking may take place on any confidential item exempted under Schedule 12A of the Local Government Act 1972.

## **What do I need to do if I decide I want to speak?**

If you want to address the Panel ~~or any of its sub committees~~, then please contact Democratic Services at least two clear working days before the meeting, i.e. if the meeting is on a Tuesday, requests to speak must be received in writing by 5.30 pm on the preceding Thursday.

**NB:** Where such a deadline date falls on a Friday, then the closing deadline time must be 5.00 pm.

When registering you will be asked for your consent to allow Democratic Services to share your details with others who request to speak after you. This allows those who are unsuccessful in registering to put their points of view to you, so you can raise them on their behalf if you feel they have merit. You are not obliged to do so if you disagree with the points of view expressed.

You are not obliged to give your consent to sharing your details and your details will only be shared with others trying to register to speak.

### **What happens at the meeting?**

At the appropriate time, the Chairman will invite each person to make his or her comment. Please turn up fifteen minutes before the start of the meeting. Give your name and (if applicable) the group you are representing.

### **How to get the most out of your time**

You should try and prepare notes in advance you can refer to in order to ensure you cover all the important points you want to make. Also try and ensure you stick to the topic being discussed, if you stray off topic you may be asked by the chairman to focus on the issue being discussed.

### **Other Rules**

Avoid derogatory or defamatory statements. You must not discuss the conduct or capability of individual Council employees or Councillors. There is no legal protection for comment made at meetings. The Council reserves the right to not allow an individual to speak at a meeting if they have previously made derogatory or defamatory statements or have acted otherwise inappropriately when exercising their public speaking rights.

### **How to Apply**

Applications should be made in writing and provide the following information:  
Name, Contact Telephone/Mobile Number;  
Brief outline of your statement;

Please send your statement to:  
[committee@thanet.gov.uk](mailto:committee@thanet.gov.uk) or write to:

Democratic Services  
Thanet District Council  
Cecil Street  
P.O. Box 9  
Margate  
Kent  
CT9 1XZ

If you have any queries please contact Democratic Services on 01843 577186 or email [committee@thanet.gov.uk](mailto:committee@thanet.gov.uk)

# Draft Members' Allowances Scheme

## Members' Allowances Scheme 2018/2019

### Introduction

- 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 2018 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 Democratic Services and Scrutiny 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.
  - 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 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.
- 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 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 2018 pursuant to a resolution of the Thanet District Council passed on the 8 February 2018.

**SCHEDULE 1****MEMBERS' ALLOWANCES SCHEME – 2018/2019****Basic Allowance**

£4,570 each Member x 56 = £255,920

**Special Responsibility Allowances**

<b>Position</b>	<b>Number</b>	<b>Allowance £</b>	<b>Possible maximum expenditure £</b>
<b>Executive</b>			
Leader	1	18,082	18,082
Deputy Leader	1	10,776	10,776
Cabinet Portfolio Holder	3	7,990	23,970
Assistant Portfolio Holder	5	1500	7500
<b>Non-Executive</b>			
Chairman of Council	1	2,188	2,188
Vice Chairman of Council	1	1,530	1,530
Group Leader of largest opposition group	2	2,881	5,762
Deputy Group Leader of largest opposition group	2	1,431	2,862
Opposition Spokesperson	6	1,431	10,890
Overview and Scrutiny Committee Chairman	1	7,990	7,990
Overview and Scrutiny Committee 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 -	1	1,216	1,216

Chairman			
Standards Committee – Vice-Chairman	1	400	400
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>113,005</b>

Total basic + SRAs = £368,925

(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 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.

**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 01/04/2018**

	<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

**SCHEDULE 2****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.



# Part 7 - Management Structure

(including "proper officer" functions.)

## Management Structure

### The Corporate Management Team (CMT)

Chief Executive  
Director of Community Services  
Director of Corporate Resources \*  
Director of Corporate Governance \*\*

Director of Operational Services

\* Chief Financial Officer/Section 151 Officer

\*\* Monitoring Officer

### The Heads of Service:

Community Services

- Head of Neighbourhoods
- Head of Built Environment
- Head of Housing
- Head of Economic Development

Corporate Resources

Corporate Governance

- Head of Legal Services
- Committee Services Manager
- Electoral Services Manager

Operational Services

- Head of Operational Services
- Technical Services Manager

# Appendix 1 - Proper Officer Functions

## Proper Officer Appointments for Specified Purposes

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
<b>Local Government Act 1972</b>			
13(3)	Parish Trustee	Chief Executive	Director of Corporate Governance
83	Witness and receipt of declaration of acceptance of office	Chief Executive	Director of Corporate Governance or Nominee
84	Receipt of declaration of resignation of office	Chief Executive	Director of Corporate Governance or Nominee
88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chairman	Director of Corporate Governance	Committee Services Manager
89(1)(b)	Receipt of notice of casual vacancy from 2 local government electors	Chief Executive	Electoral Services Manager
96(1)	Receipt of notices of pecuniary interest	Director of Corporate Governance	Committee Services Manager
96(2)	Keeping record of disclosures of pecuniary interest under Section 94 and of notices under Section 96(1)	Director of Corporate Governance	Committee Services Manager
100(B)(2)	Circulation of Reports and Agendas	Director of Corporate Governance	Committee Services Manager
100(B)(7)(C)	Supply of Papers to the Press	Director of Corporate Governance	Committee Services Manager

<b>Act and Section</b>	<b>Proper Officer's Function</b>	<b>Proper Officer</b>	<b>Officer Appointed to Act in Absence of Proper Officer</b>
100(C)(2)	Summaries of Minutes	Director of Corporate Governance	Committee Services Manager
100(D)(1)(a) 100(D)(5)(a)	The compilation of Lists of Background Papers for Agenda items and reports and identification thereof	Relevant Director/Head of Service	Nominee
100(F)(2)	Papers not open to Members	Chief Executive	Director of Corporate Governance
146(1)(a) and (b)	Declarations and certificates with regard to securities	Director of Corporate Resources	Nominee
151	Administration of Financial Affairs	Director of Corporate Resources	Head of Financial Services
210(6) and (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authority, or, if there is no such office, to proper officers	Director of Corporate Governance	Nominee
225(1)	Deposit of documents	Director of Corporate Governance	Head of Legal Services
229(5)	Certification of photographic copies of documents	Director of Corporate Governance	Any solicitor employed by the Council
234(1) and (2)	Authentication of documents	Relevant Officer with delegated power to give, make or issue documents	Nominee
236(9) and (10)	To send copies of byelaws to County Council and Parish Councils	Director of Corporate Governance	Head of Legal Services
238	Certification of byelaws	Director of Corporate Governance	Head of Legal Services
Schedule 12 Para 4(2)(b)	Signature of summonses to Council meetings	Director of Corporate Governance	Committee Services Manager

<b>Act and Section</b>	<b>Proper Officer's Function</b>	<b>Proper Officer</b>	<b>Officer Appointed to Act in Absence of Proper Officer</b>
Schedule 12 Para 4(3)	Receipt of notices regarding address to which summons to meetings is to be sent	Director of Corporate Governance	Committee Services Manager
Para 25(7)	Certification of resolutions under para 25 of Schedule 14. (Relating to Public Health Acts 1875-1925)	Director of Corporate Governance	Head of Legal Services
<b>1.0 Representation of the People Act 1983</b>			
8	Electoral Registration Officer	Chief Executive	Electoral Services Manager
83	Returning Officer for District, Parish & Community Council Elections	Chief Executive	Electoral Services Manager
<b>2.0 Local Elections (Parishes and Communities) Rules 1986</b>			
Rule 8	Receipt of request by 10 local government electors for the electoral area to hold an election to fill a casual vacancy in the office of Parish Councillor	Chief Executive	Electoral Services Manager
<b>3.0 Local Government (Miscellaneous Provisions) Act 1976</b>			
41	Evidence of resolutions and Minutes of Proceedings, etc	Director of Corporate Resources	Nominee
<b>4.0 National Assistance Act 1948 and National Assistance (Amendment) Act 1951</b>			
47 and 1	To secure the necessary care and attention for persons who:- (a) are suffering from grave chronic diseases, or (b) being aged, infirm or physically incapacitated and living in insanitary conditions; and (c) are unable to devote themselves, and are not receiving from other persons, proper care and attention.	Any person for the time being employed as a Consultant in Communicable Disease Control / Consultant in Health Protection at Public Health England South East	

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
<b>5.0 Public Health (Control of Diseases) Act 1984</b>			
Section 48 as amended by Health and Social Care Act 2008	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Any person for the time being employed as a Consultant in Communicable Disease Control / Consultant in Health Protection at Public Health England South East	
<b>6.0 The Health Protection (Notification) Regulations 2010</b>			
Regulations 2, 3, 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Any person for the time being employed as a Consultant in Communicable Disease Control / Consultant in Health Protection at Public Health England South East	
<b>7.0 Rent (Agricultural) Act 1976</b>			
Schedule 4	Determination of the standard of housing which may be offered by a farmer as alternative accommodation for his or her present employees when they cease to be employed by him/her	Director of Community Services	Nominee
<b>8.0 Local Government Finance Act 1988</b>			
114	Compilation of reports on actual or contemplated unlawful expenditure or if the Authority's expenditure, including proposed expenditure, is likely to exceed its resources	Director of Corporate Resources	Nominee
<b>9.0 Local Government and Housing Act 1989</b>			
4	Head of the Council's Paid Service	Chief Executive	Nominee
5	Monitoring Officer	Director of Corporate Governance	Deputy Monitoring Officer (nominated by Monitoring Officer)

<b>Act and Section</b>	<b>Proper Officer's Function</b>	<b>Proper Officer</b>	<b>Officer Appointed to Act in Absence of Proper Officer</b>
15-17	Political Balance on Committees, etc	Director of Corporate Governance	Committee Services Manager
19	Members' Interests	Director of Corporate Governance	Committee Services Manager

<b>Act and Section</b>	<b>Proper Officer's Function</b>	<b>Proper Officer</b>	<b>Officer Appointed to Act in Absence of Proper Officer</b>
<b>Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000</b>			
4	Publishing of Verification Number for Petitions	Chief Executive	Electoral Services Manager

## Proper Officer/Monitoring Officer Roles

(NB. Some proper officer functions are mentioned specifically by reference to the relevant officer in the text of the Constitution and in the list below. Where the text refers to the “proper officer” without identifying the relevant officer, that officer is identified in the list below.)

			Proper Officer	Deputy
Articles				
P19	7.08	– Receipt of notice of removal of Cabinet member.	Director of Corporate Governance	Committee Services Manager
P27	12.03 (e)	– Public availability for Cabinet decisions.	Director of Corporate Governance	Committee Services Manager
<b>Council Procedure Rules</b>				
P96	1.3	Calling extraordinary meetings.	Director of Corporate Governance	Committee Services Manager
P96	1.3	Determination of date and time of extraordinary meetings.	Director of Corporate Governance	Committee Services Manager
P102	4.4	Report re: allocation of politically balanced seats.	Director of Corporate Governance	Committee Services Manager
P104	7.0	Determination of time and place of (ordinary) meetings.	Director of Corporate Governance	Committee Services Manager
P104	8	Notice of and summons to meetings.	Director of Corporate Governance	Committee Services Manager
P106	13.3	Receipt of questions from press and public.	Committee Services Manager	Committee Services Manager
P106	13.5	Rejection of questions.	Chief Executive	Director of Corporate Governance
P108	14.10(iv)	Record of questions	Committee Services Manager	Committee Services Manager



			<b>Proper Officer</b>	<b>Deputy</b>
P107	14.5	Receipt of notice of Members' questions.	Committee Services Manager	Committee Services Manager
P99	14.9	Receipt of notice of written questions.	Committee Services Manager	Committee Services Manager
P108	14.10(iv)	Register of questions.	Committee Services Manager	Committee Services Manager
P99	3.0	Motions on notice.	Director of Corporate Governance	Committee Services Manager
P114	21.0(v)	Receipt of requisitions for special meetings of Committees.	Director of Corporate Governance	Committee Services Manager
P115	21.3	Date and time of special Committee meetings (in consultation with Chairman or Vice-Chairman).	Committee Services Manager	Nominee
<b>Access to Information Procedure Rules</b>				
P118	5.0	Supply of documents	Committee Services Manager	Nominee
P119	9.1	List of background papers.	Officer making report	Nominee
P120	11.0	Exclusion of access to reports.	Officer making report	Nominee
P123	17.1	Publication of forward plan particulars (after receipt from relevant Directors).	Committee Services Manager	Nominee
P124	18.1	Key decisions not in forward plan – informing relevant Chairman.	Director of Corporate Governance	Committee Services Manager
P124	18.3	Key decisions not in forward plan – availability of copies for public.	Director of Corporate Governance	Committee Services Manager

			<b>Proper Officer</b>	<b>Deputy</b>
P126	21.0	Record of Cabinet decisions taken with officer(s) present.	Committee Services Manager	Nominee
P127	22.1	Record of decisions by individual Cabinet members on reports received.	Committee Services Manager	Nominee
<b>Budget and Policy Framework Procedure Rules</b>				
P131	2(a)	Service of copies of Cabinet Budget and policy proposals.	Director of Corporate Governance	Committee Services Manager
P131	2(f)	Written notices of Leader's objection to Council decision on budget/policy.	Director of Corporate Governance	Committee Services Manager
<b>Cabinet Procedure Rules</b>				
P136	1.4(b)	Notices/reports on delegation of Executive functions.	Director of Corporate Governance	Committee Services Manager
P137	2.4	Placing items on agendas at request of Leader and others (including the calling of meetings.)	Committee Services Manager	Nominee
<b>Overview and Scrutiny Procedure Rules</b>				
P139	1(d)	Receipt of reports of changes to <del>O/S Sub-Committee</del> <a href="#">the Executive, Policy &amp; Community Safety Scrutiny Panel and Finance, Budget &amp; Performance Scrutiny Panel.</a>	Committee Services Manager	Nominee
P140	4.0	Extraordinary meetings of <a href="#">the Executive, Policy &amp; Community Safety Scrutiny Panel and Finance, Budget &amp; Performance Scrutiny Panel.</a> <del>Overview and Scrutiny Committee.</del>	Chief Executive and/or Director of Corporate Governance	Nominee
P141	8(a)	Inclusion of agenda items at Members' request.	Committee Services Manager	Nominee
P141	10(a)	Receipt of recommendations to be put to Cabinet.	Committee Services Manager	Nominee

			<b>Proper Officer</b>	<b>Deputy</b>
P142	11(a)	Calling Council meetings.	Director of Corporate Governance	Committee Services Manager
P142	11.2.1	Receipt of <a href="#">the Executive, Policy &amp; Community Safety Scrutiny Panel and Finance, Budget &amp; Performance Scrutiny Panel Overview and Scrutiny Committee</a> report to be put to individual Cabinet member and response of that Cabinet member.	Committee Services Manager	Nominee
P143	13.0	Notification of requirement to attend meeting.	Committee Services Manager	Nominee
P144	15(d) and (i)	Receipt and notification of call-in requests.	Director of Corporate Governance	Committee Services Manager
P144	15(d) and (i)	Calling of <a href="#">the Executive, Policy &amp; Community Safety Scrutiny Panel</a> Meeting on account of call in.	Director of Corporate Governance	Committee Services Manager
Standards Committee			Director of Corporate Governance	Deputy Monitoring Officer
Declarations of Members' Interests.			Director of Corporate Governance	Committee Services Manager
Any proper officer function not dealt with elsewhere.			Director of Corporate Governance	Deputy Monitoring Officer

## Appendix 2 – Councillor Role Description

### Role Descriptions

#### 1. Ward Councillor

##### **Purpose of Role:**

To participate constructively and effectively in the good governance of Thanet District Council.

##### **Duties and responsibilities:**

- (i) To observe the Members' Code of Conduct, act at all times with probity and propriety in the best interests of the Council and maintain confidentiality in all relevant Council business.
- (ii) To be collectively the ultimate policy-makers by contributing actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery.
- (iii) To represent effectively and impartially the Ward to which they were elected and bring their communities' views and concerns into the Council's decision-making process by becoming the advocate of and for their communities.
- (iv) To champion causes which best relate to the interests and sustainability of the community and campaign for improvement of quality of life in the community in terms of equity, economy and the environment.
- (v) To respond to constituents' enquiries and representations fairly; to deal with individual casework and act as advocate in resolving constituents' particular concerns or grievances.
- (vi) To participate effectively as a Member of any Committee, Sub-Committee, working party or other body to which they are appointed and to develop and maintain a working knowledge of the Council's services, powers, duties, policies and practices including a good working relationship with officers of the Council.
- (vii) To represent the Council effectively on any outside body to which they are appointed, providing two-way communication between the organisations and reporting to the Council on the work of the body and its contribution to the District.
- (viii) To develop and maintain a working knowledge of other organisations and services within the District including the promotion of partnership working.
- (ix) To contribute constructively to open government and generally encourage all sections of the community to participate in the democratic process.
- (x) When unable to attend a meeting of Committee or other body to which they have been appointed a member, to consider finding a suitable substitute for the meeting and advise the Democratic Support section of the substitution.
- (xi) To attend Member training whenever possible in order to develop competencies, increase knowledge and receive updated information.

## 2. Chairman of a Committee

### Purpose of Role:

To chair meetings of the Committee to which they have been appointed by Council in accordance with the Committee's terms of reference and to provide leadership and direction to the Committee.

### Duties and responsibilities (in addition to those of a Ward Councillor):

- (i) To develop a constructive relationship with the relevant Head of Service, senior officers and appropriate Portfolio Holder.
- (ii) To maintain a good working relationship with the Vice-Chairman and Group Spokespersons of the committee and ensure they are adequately briefed on all relevant issues.
- (iii) To agree the agenda in consultation with the relevant officers.
- (iv) To be consulted as necessary on addition of items to the agenda as a matter of urgency.
- (v) To attend briefing meetings with appropriate senior officer(s) as necessary.
- (vi) To uphold the Council's Constitution for the conduct of meetings.
- (vii) To chair effective and efficient meetings of the committee ensuring that approved procedures are followed, all members of the committee are given equal opportunity to debate business to be conducted, and order is maintained during the meeting.
- (viii) To ensure that the Council's decision making process is transparent, consistent and accountable.
- (ix) To use the Chairman's second or casting vote as and when appropriate.
- (x) To vary the order of business if considered appropriate.
- (xi) To approve the final draft Minutes or Notes submitted by Democratic Services officers, suggesting amendments if necessary, and to sign the Minutes/Notes as a correct record of the meeting when approved by the committee at the following meeting.

## 3. Chairman of the Overview & Executive, Policy & Community Safety Scrutiny Panel and Finance, Budget & Performance Scrutiny Panel

### Purpose of Role:

To chair the Council's Overview and Scrutiny Panels to ensure effective consideration and scrutiny by the Panel of decisions, proposals and reports of the Cabinet.

### Duties and responsibilities (in addition to those of a Chairman of a Committee):

- (i) At all times to use their own discretion and act in the interests of the Council and not of their political group.
- (ii) To lead the Panel on scrutiny of the Council's policies, budget, strategies and service delivery as relevant and appropriate.
- (iii) To set the agenda for Panel meetings, with assistance from officers.
- (iv) To assist with formulation of the agreed work programme.
- (v) To represent the relevant Panel's views and present its resolutions to meetings of the Cabinet, Council or other Committees.
- (vi) To promote the role of overview and scrutiny within and outside the Council.
- (vii) To meet regularly with relevant officers to ensure the receipt of appropriate independent advice.

- (viii) To be fully aware of the Council's Forward Plan and to ensure that the Panel is able to consider all relevant issues within the timescale set out in the work programme.
- (ix) To provide agreement where appropriate for special urgency decisions to be implemented if not in the Forward Plan, in accordance with relevant guidelines.
- (x) To fully involve external stakeholders such as service users, expert witnesses and partners in overview and scrutiny activities.
- (xi) To call in a decision of the Executive in accordance with the agreed procedure. (Executive, Policy & Community Safety Panel Chairman only)
- (xii) To contribute effectively to the Council's scrutiny process by ensuring the questioning of the relevant officers on performance management. (Finance, Budget and Performance Panel Chairman only)

#### 4. Chairman of Planning Committee

##### **Purpose of Role:**

To chair meetings of the Council's Planning Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee and open and transparent decision making on planning applications brought to Committee.

##### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) At all times to use their own discretion and act in the interests of Thanet District Council and not of their political group.
- (ii) To be fully conversant with the procedure for public speaking at Committee and to ensure that all parties are given an equal opportunity to express their views within that procedure.
- (iii) Whenever possible to attend and chair site visits, ensuring that the correct procedure is followed in order for Members to obtain the necessary information from the visit.
- (iv) To maintain and update a working knowledge of Town and Country Planning matters, Planning Policy Guidance and Planning Policy Statements, the Council's Local Development Framework, and other policies and practices affecting applications for planning permission which come before Committee.

#### 5. Chairman of Standards Committee

##### **Purpose of Role:**

To chair meetings of the Council's Standards Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee in close liaison with the Council's Monitoring Officer

##### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) As an independent, non-elected member of the Council to be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors who may be required to appear before the Committee or its Sub-Committees.

- (ii) To be fully conversant with the Council's Code of Conduct and the procedures for hearing complaints against elected District or Parish councillors.
- (iii) To assist the Council's Monitoring Officer as required with training elected councillors, both District and Parish.
- (iv) To liaise with the appropriate officers on reports.
- (v) To submit a report to the Annual Meeting of the Council on the work of the Standards Committee during the previous year.

## **6. Chairman of the Constitutional Review Working Party**

### **Purpose of Role:**

To chair meetings of the Council's Constitutional Review Working Party in accordance with the Working Party's terms of reference; to provide leadership and direction to the Working Party in close liaison with the Council's Monitoring Officer.

### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) To be fully conversant with the Council's Constitution and decision-making processes;
- (ii) In so far as is practicable, to promote consensus decision-making in relation to Constitutional changes;
- (iii) As an independent, non-elected member of the Council to be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors who may be required to appear before the Committee or its Sub-Committees;
- (iv) To liaise with the appropriate officers on reports;

## **7. Chairman of Licensing Board**

### **Purpose of Role:**

To chair meetings of the Council's Licensing Board in accordance with the Board's terms of reference; to provide leadership and direction to the Board and open and transparent decision making on licensing matters brought to Board.

### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) At all times to use their own discretion and act in the interests of the Licensing Authority and not of their political group.
- (ii) To be fully conversant with the procedure for hearings at Committee and to ensure that all parties are given an equal opportunity to express their views within that procedure.
- (iii) To liaise with the Council's Regulatory Services Manager and Legal department as necessary.
- (iv) To maintain and update a working knowledge of the Licensing Act 2003, relevant guidelines and regulations, and the Gambling Act 2005 as they affect applications which come before the Licensing Board.
- (v) To maintain and update a working knowledge of the various licences dealt with by the Council's Licensing Section, the guidelines for fit and proper persons and the Council's guidelines and policies in respect of the Hackney

- Carriage and Private Hire trades as they affect applications and other matters brought before the Licensing Board.
- (vi) To undertake training on new or amended legislation, regulations or procedures as required.

## **8. Chairman of Governance and Audit Committee**

### **Purpose of Role:**

To chair meetings of the Council's Governance and Audit Committee in accordance with the Committee's terms of reference; to provide leadership and direction to the Committee on detailed financial and audit matters brought before Committee.

### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) Maintain and update a working knowledge of the Council's financial practices, budget process and timetable, draft and year end accounts.
- (ii) Have an overall understanding of the various functions and service areas of the Council with regard to audit reports on performance levels.
- (iii) To work closely with the Head of Audit Partnership, Financial Services Manager and Deputy S.151 Officer and the Business Support and Compliance Manager in respect of reports to be considered by Committee.
- (iv) To undertake training on new or amended legislation, regulations or procedures as required.

## **9. Chairman of General Purposes Committee (when appointed)**

### **Purpose of Role:**

To chair meetings of the Council's General Purposes Committee in accordance with the Committee's terms of reference; to provide leadership and direction to Members on matters which would otherwise have been dealt with by Council.

### **Duties and responsibilities (in addition to those of a Chairman of a Committee):**

- (i) To have a clear understanding of the role of the Committee and the matters which it can consider and those powers and functions which are reserved to Council.
- (ii) Have an overall understanding of the various functions and service areas of the Council.
- (iii) Maintain and update a working knowledge of the Council's terms and conditions of employment.
- (iv) To work closely with the Chief Executive and the Service Managers as necessary.

## **10. Cabinet Member**

### **Purpose of Role:**



- (i) To carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under the Council's Constitution.
- (ii) In addition, to have the general role of providing leadership and guidance in respect of all executive functions within the portfolio area for which they are accountable,

**Duties and responsibilities (in addition to those of a Ward Councillor):**

- (i) To participate effectively as a member of the Cabinet, being responsible collectively and individually for making and implementing executive decisions, including proposing for adoption the Council's budget and policy framework.
- (ii) To review regularly the effectiveness of policies and services for which the portfolio holder is responsible and make recommendations to the Cabinet for continuous improvement.
- (iii) To seek advice from relevant officers before taking any decision which may be within their own delegated authority.
- (iv) To monitor and review capital and revenue budgets in their areas of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.
- (v) Annually to review fees and charges where these are relevant to the responsibility areas and to recommend changes in line with the Council's agreed budget strategy.
- (vi) To liaise and work with other portfolio holders on cross-cutting areas of responsibility and make recommendations to the Cabinet as appropriate for decision.
- (vii) To consider and agree service plans for services for which they are responsible and regularly review these with appropriate officers to ensure agreed actions are taken.
- (viii) To identify and encourage participation and consultation on Council policies and strategies contained in the Corporate Plan with all members of the Council, staff, residents of the District, partners and stakeholders and to promote the Council's core values.
- (ix) To speak on behalf of the Council and to represent the Council on relevant external bodies to which they are appointed by the Council or the Executive.
- (x) To refer to Cabinet any matters with corporate implications.
- (xi) To receive representations from Councillors acting in their capacity as Ward members in relation to the provision of services to residents within their area.
- (xii) To exercise delegated powers in accordance with the Council's Constitution.
- (xiii) To make a decision in accordance with the Council's Constitution in a case where a matter is urgent and cannot wait for the next meeting of the Cabinet.

**11. Leader of the Council**

**Purpose of Role:**

- (i) To provide strategic direction and leadership to the Council and lead in its relations with government, other public bodies, partner organisations and the media.
- (ii) To be responsible for:
  - Leadership
  - Policy co-ordination and development
  - Communications
  - Corporate Plan

- Partnership development
- Strategic budget co-ordination
- Community strategy

**Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):**

- (i) To provide effective political leadership and strategic direction to the Council, stakeholders and partners in the overall co-ordination of Council policies, strategies and service delivery and to achieve the objectives of the Council's Corporate Plan.
- (ii) To ensure effective corporate governance including working with opposition groups to achieve, where possible, cross-party co-operation and to promote the highest standards of probity.
- (iii) To lead the Cabinet and chair its meetings, ensuring that it meets its collective terms of reference and that of individual portfolio holders, and be responsible for the Council's corporate and resource strategy.
- (iv) To lead the development of local, regional, national and European policy and strategic partnerships.
- (v) To lead in developing partnerships with agencies, residents and stakeholders in relation to the delivery of strategic objectives and the provision of services to residents of the District in accordance with the community planning process.
- (vi) To be the key contact for outside organisations including central government, to communicate policies and priorities to the Council's Senior Management Team (SMT) and to receive its advice.
- (vii) To positively promote the Council and the District in the media and to act as the spokesperson for the Council.
- (viii) To promote the long term financial, business and economic stability of the Council.
- (ix) To ensure that the recommendations of the Overview and Scrutiny Committees are fully considered in the formulation and development of Council policy.
- (x) Annually to appoint members of the Cabinet and determine the individual portfolio holders.
- (xi) To exercise delegated powers in accordance with the Council's Constitution.
- (xii) To consult on and give consent to as appropriate decisions taken between meetings of Cabinet as set out in the Council's Constitution.
- (xiii) To nominate members of his/her group to serve on committees and sub-committees of the Council.
- (xvi) To give an oral report to each ordinary meeting of Council.
- (xv) In the event of a hung Council, the Leader of Council and Opposition Leader should work together in a constructive manner.

**12. Deputy Leader**

**Purpose of the role:**

To support the Leader and fulfil all areas of responsibility of the Leader in their absence and to ensure that the Council's management and political processes function effectively.

**Duties and responsibilities (in addition to those of a Ward Councillor and a Chairman of a Committee):**

- (i) To assist and work with the Leader of the Council.
- (ii) In the absence of the Leader of the Council, to deputise for them at Council meetings and chair meetings of the Cabinet.
- (iii) To carry out the requirements of the Leader's job profile in as far as legally possible and permissible, in the absence of the Leader.
- (iv) To carry out such duties and undertake portfolio responsibility as delegated by the Leader of the Council.

**13. Shadow Leader of Council**

**Purpose of Role:**

- (i) To provide leadership to the Council's major opposition group.
- (ii) To ensure effective, positive and constructive opposition and/or challenge to the Council's majority group.

**Duties and Responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):**

- (i) To provide overall leadership to the Council's major opposition group;
- (ii) To ensure effective corporate governance including working with other groups to achieve, where possible, cross-party co-operation and to promote the highest standards of probity;
- (iii) To lead effectively the opposition and/or challenge to the majority group at the Council and provide, as appropriate, alternatives or amendments to the Council's policies, strategies and budgets and proposed amendments thereto.
- (iv) To act as the principal political spokesperson for the major opposition group.
- (v) To meet regularly with his/her group members to ensure good communications and to inform effective opposition;
- (vi) To maintain effective relationships with the Leader of the Council, members of the Executive, the Chief Executive, Service Managers and other relevant senior officers, to meet them as required to ensure effective briefings on service and relevant corporate areas and any other relevant issues pertaining to the Council.
- (vii) To nominate members of his/her group to serve on committees and sub-committees of the Council.
- (viii) To ensure effective contact with community representatives and other local stakeholders, as appropriate, and represent their views in ensuring effective opposition to the majority party.
- (ix) In the event of a hung Council, the Leader of Council and Opposition Leader should work together in a constructive manner.

**14. Shadow Cabinet Member**

**Purpose of Role:**

To assist the Leader of the Majority Opposition Group by providing informed comment and advice in respect of their particular shadow portfolio and with regard to the work being undertaken by the current Portfolio Holder.

**Duties and responsibilities (in addition to those of a Ward Councillor):**

- (i) To provide constructive challenge to the policies of the administration.
- (ii) To assist in shaping the policy of the Opposition Group with regard to its shadow portfolio.
- (iii) To liaise and work with other shadow portfolio holders on cross-cutting areas of responsibility.
- (iv) To receive briefings at regular intervals from Senior Officers of the Council as required.
- (v) To participate effectively as a member of the Shadow Cabinet by becoming thoroughly conversant with the area of expertise relevant to their specific portfolio.

**15. Chairman of the Council**

**Purpose of Role:**

The Chairman will be elected by the Council annually to:

- (i) Be the Civic Head of the Council representing the Council as a whole in all civic and ceremonial matters; and
- (ii) Preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the Community.

**Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):**

**Ceremonial Role**

- (i) The Chairman will attend such civic and ceremonial functions as the Council and he/she determines appropriate having regard to criteria determined in consultation with the Leader of the Council for which events require a civic/ceremonial presence.
- (ii) To positively promote the Council and the District.

**Chairing the Council Meeting**

- (i) To uphold and promote the purposes of the Council's Constitution and to interpret the Constitution when necessary.
- (ii) To preside over meetings of the Council in an impartial manner.
- (iii) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are neither on the Executive nor hold Committee chairs are able to hold the Executive and Committee chairmen to account.
- (iv) To promote public involvement in the Council's activities.
- (v) To be the conscience of the Council.
- (vii) To be the arbiter in respect of appropriate decisions taken between meetings of Cabinet where the call-in procedure should not apply.

## **16. Vice-Chairman of the Council**

### **Purpose of Role:**

To support the Chairman of the Council and, in his/her absence, to have the same roles and functions as the Chairman.

### **Duties and Responsibilities:**

- (i) To attend such civic functions and events as shall be requested by the Chairman.
- (ii) To assist the Chairman at meetings of Council as necessary.