

# Public Document Pack



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24 September 2014

Dear Councillor

I am enclosing for consideration at the meeting of the **GOVERNANCE COMMITTEE** on Thursday 2 October 2014 at 6.00 pm, the Supplementary Appendix containing the draft of Issue 19 of the Review of the Constitution 2014.

4 **REVIEW OF THE CONSTITUTION 2014** (Pages 2 - 460)

To consider the attached report of the Director of Governance.

Yours sincerely

A handwritten signature in black ink, appearing to be "Nicky", written in a cursive style. The signature is positioned above the title "Chief Executive".

Chief Executive



# CONSTITUTION OF THE COUNCIL

This document is correct as at the date of issue but is subject to variation. Therefore, you are strongly advised to refer to the most up to date version which can be viewed on the Council's website and the Intranet.

**Issue 19: ~~28 November 2013~~ 27 November 2014**

# CONSTITUTION OF THE COUNCIL

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# Part 1

## Summary and Explanation





## **Part 1 – Summary and Explanation**

### **The Council's Constitution**

Dover District Council has agreed a 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.

The Constitution is divided into 16 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

### **What's in the Constitution?**

Article 1 of the Constitution commits the Council to achieving the delivery of identifiable and accountable corporate leadership for the local authority and the community which it serves and to the provision of efficient, open and transparent and accountable decision making.

Articles 2 – 16 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council Meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny of Decisions (Article 6).
- The Executive (Article 7).
- Regulatory and Other Committees (Article 8).
- The Standards Committee (Article 9).
- Area Committees and Forums (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).

## How the Council operates

The Council is composed of 45 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. The Standards Committee advises them on the code of conduct.

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. The functions and roles of full Council include:

- To adopt the Constitution and any subsequent changes to it;
- To determine the decision making structure of the Council and its internal procedural rules;
- To elect annually the Chairman and Vice-Chairman of the Council (who shall not be members of the Cabinet);
- To elect the Leader of the Council for a four year term at the Annual Meeting of the Council following on from the ordinary election of all Councillors, who appoints the Cabinet;
- To remove the Leader of the Council by a simple majority vote.
- To make appointments to committees;
- To provide the forum for all members of the Council to consider and decide the Council's Policy Framework and Budget (which is submitted for approval by the Leader and Cabinet);
- To take decisions in respect of functions that are the responsibility of the Leader and Cabinet but which are not in accordance with the Policy Framework or Budget agreed by the Council;
- To take decisions in respect of functions which are not the responsibility of the Leader and Cabinet and which have not been delegated by the Council to committees, sub-committees or officers;
- To provide a public forum whereby members and the public may ask questions on matters relevant to the Council's functions and to bring forward matters for debate;
- To allow questions to be put to the Leader and Cabinet;
- To receive reports from all committees of the Council (ie the Scrutiny, Standards and Regulatory Committees) providing opportunity for questions and comments from members;

- To receive reports and to confirm or otherwise deal with the recommendations of the Cabinet or Council committees upon matters which are reserved to the Council for decision;
- To direct any Scrutiny Committee with regard to carrying out any programme of work or investigation;
- To receive reports and recommendations from the Head of Paid Service, Monitoring Officer and Director of Finance, Housing and Community;
- To adopt the Council's code of conduct;
- To make or confirm the appointment of Chief Officers;
- To determine those matters which must, under current legislation, be decided by the Council and not be delegated to a Committee or an officer.

## **How Decisions are made**

### **The Executive**

The executive is the part of the Council which is responsible for most day-to-day decisions. The executive is made up of the Leader of the Council, who is elected by the Council for a four year term at the Annual Meeting of the Council following on from the ordinary election of all Councillors, and a Cabinet of up to nine councillors who are appointed by the Leader. When major decisions are to be discussed or made, these are published in the executive's [forward plan notice of forthcoming key decisions](#) insofar as they can be anticipated. If these major decisions are to be discussed with council officers at a meeting of the executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The executive 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.

### **Overview and Scrutiny Committees**

There are two overview and scrutiny committees who support and monitor the work of the executive and the Council as a whole. The Scrutiny (Policy and Performance) Committee is responsible for 'call in' and co-ordination of scrutiny. It is also possible for call in to be referred to the Scrutiny (Community and Regeneration) Committee with the agreement of the Chairman of this Committee. They allow citizens 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 executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the executive. There is a procedure for 'call-in' of a decision which has been made by the executive but not yet implemented which enables the Scrutiny (Policy and Performance) Committee to consider whether the decision is appropriate and it may recommend that the executive reconsider the decision. Scrutiny Committees may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

### **Advisory Groups**

Advisory groups can be appointed by the Cabinet to support the work of the executive on specific projects or on specific functions or activities. They operate informally and are broadly politically balanced. Such a group will include an executive member who will chair

the group. They allow other members of the Council who are not members of the executive to contribute to project development and advise on certain functions/activities before determination of the matter by the executive out of the context of full Council meetings and the formal overview and scrutiny committee process. The groups can also make reports and give recommendations to the executive, but the decision must always be made by the executive (either the Leader, Cabinet or an individual Portfolio Holder).

## **Community Consultation Forums**

In order to give local citizens a greater say in council affairs, community consultation forums have been or will be created on key issues, including the Rural and Urban Regeneration Boards which form part of and report to the Community Strategy Partnership.

## **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.

## **Citizens' Rights**

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific council services, for example as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right 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 in accordance with any procedures laid down;
- find out from the executive's [forward plan/notice of forthcoming key decisions](#) what major decisions are to be discussed by the executive or decided by the executive or officers, and when;
- attend meetings of the executive where key decisions are being discussed or decided;

- see reports and background papers, and any record of decisions made by the Council and executive; except where, for example, personal or confidential matters are being reported;
- complain to the Council about Council services – the Council encourages its customers through its Corporate Complaints Procedure to express their concerns so that there is an opportunity to put things right for the customer and improve the service;
- 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 ~~Standards for England~~ Monitoring Officer if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct;
- inspect the Council's accounts and make their views known to the external auditor;
- make a request for information pursuant to the Freedom of Information Act 2000; and
- not less than 20 local government electors may present a petition to the Scrutiny (Policy and Performance) Committee.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Democratic Support Team for details.

A statement of the rights of citizens to inspect agendas and reports and attend meetings may be obtained on request at the Council offices.



## Part 2

### Articles of the Constitution

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## **PART 2**

### **Article 1 – The Constitution**

#### **1.01 Powers of the Council**

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

#### **1.02 The Constitution**

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

#### **1.03 Purpose of the Constitution**

##### **(a) Corporate Governance**

This culture and approach will be embedded into the revised policies and procedures within the Constitution of the Council under the all encompassing umbrella and benchmark of Corporate Governance.

For more information about the Council's Corporate Governance, please contact the Council's Director of Governance (872141).

##### **(b) Council's Aims and Objectives**

The Council adopts this Constitution and the statement of purposes set out below having regard to its desire to fulfil the following aims and objectives:

- The Council seeks to deliver identifiable and accountable corporate leadership for the local authority and the community it serves and to provide efficient, transparent and accountable decision-making.

- The Council is committed to the following vision:

”A high-speed District of growth, enterprise and opportunity.”

- To deliver this vision Dover District Council has identified the following strategic priorities:

##### **Strategic Priority 1**

Enabling and supporting growth of the economy and opportunity for investment and jobs.

##### **Strategic Priority 2**

Facilitating strong communities with a sense of place and identity.

### **Strategic Priority 3**

Serving our communities effectively.

### **Strategic Priority 4**

An effective and efficient Council.

#### **(c) Statement of Purposes**

The purposes of the Constitution are therefore to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens 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 in which they were directly involved;
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 will monitor and evaluate the operation of the Constitution as set out in Article 15.

The Council will always have regard to its Code of Corporate Governance in the interpretation and review of the Constitution. The Corporate Governance arrangements will also be used to audit and benchmark the Constitution.

*References: Section 37, LAG 2000  
Chapter 10, DETR Guidance  
The Local Government Act 2000 (Constitutions) (England) Direction  
2000*

## Article 2 – Members of The Council

### DEVELOPING ROLES FOR COUNCILLORS

#### 2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 45 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (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, ie become the advocate of and for their communities;
  - (iii) respond to constituents' enquiries and representations, fairly and impartially;
  - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - (v) maintain the highest standards of conduct and ethics.
  - (vi) be available to represent the Council on other bodies; and
  - (vii) participate in the governance and management of the Council and be involved in decision-making.
- NB The community role of councillors will be strengthened through the Members' Training and Induction Programme.

(b) **Job Descriptions**

These key roles are set out in job descriptions for Councillors in the Appendix to this article. There are additional roles and tasks which vary, according to the position the Councillor holds.

(c) **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, when acting in their capacity as an elected or co-opted member of the authority, will comply with the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution. Members will also observe the Protocol for Good Practice in Planning Procedures and the Protocol for Officers and Members for Dealing with Conflicts of Interest of Councillors in Professional Practice.

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.

*References: Part 1, Part V and Section 79, Local Government Act 1972  
Chapter 2, DETR Guidance  
Section 18, Local Government and Housing Act 1989 and regulations thereunder  
Section 7, Superannuation Act 1972 and regulations thereunder*

**JOB DESCRIPTIONS**

**1. Ward Councillor**

**Purpose of Role:**

To participate constructively and effectively in the good governance of Dover District Council.

**Duties and responsibilities:**

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) To respond to constituents' enquiries and representations fairly and impartially, to deal with individual casework and act as advocate in resolving constituents' particular concerns or grievances.
- (f) To participate effectively as a Member of any Committee, Sub-Committee, working group 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.
- (g) To represent the Council effectively on any outside body to which they are appointed, providing two-way communication between the organisations and presenting annually to Council a report on the work of the body and its contribution to the District.
- (h) To develop and maintain a working knowledge of other organisations and services within the District including the promotion of partnership working.
- (i) To contribute constructively to open government and generally encourage all sections of the community to participate in the democratic process.

- (j) When unable to attend a meeting of Committee or other body to which they have been appointed a member, to find a suitable substitute for the meeting and advise the Democratic Support section of the substitution.
- (k) To take part in Member training in order to develop competencies, increase knowledge and receive updated information.

Skills required:

- Good communication and interpersonal skills.
- Ability to relate to and deal with the public in a professional and timely manner and having regard to all aspects of equality and diversity.
- Ability to work professionally and effectively with Council officers and outside organisations.
- Community leadership skills.

**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):

- (a) To develop a constructive relationship with the relevant Head of Service, senior officers and appropriate Portfolio Holder.
- (b) To maintain a good working relationship with the Vice-Chairman and Controlling Group Spokesperson of the committee and ensure they are adequately briefed on all relevant issues.
- (c) To be consulted as necessary on the addition of items to the agenda as a matter of urgency.
- (d) To attend briefing meetings with appropriate senior officer(s) as necessary.
- (e) To uphold the Council's Constitution for the conduct of meetings.
- (f) 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.
- (g) To ensure that the Council's decision-making process is transparent, consistent and accountable.
- (h) To use the Chairman's casting vote as and when appropriate.
- (i) To vary the order of business if considered appropriate
- (j) To approve the final draft Minutes or Notes submitted by Democratic Support 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.

Specific skills required (in addition to those of a Ward Councillor):

- Ability to gain information by asking relevant questions and seeking necessary information.
- Active listening skills to ensure that speakers with differing abilities are heard and understood.
- Competent in analysing available information, summarising it, explaining outcomes and reasons for outcomes.
- Interpersonal and communication skills to ensure inclusion of all contributors whilst maintaining the focus and direction of the meeting.
- Ability to give clear guidance on procedures to be followed, explanation of outcomes if procedures/protocols not observed, and to take necessary and proportionate action when required.

**3. Chairman of Overview and Scrutiny Committee**

Purpose of Role:

To chair one of the Council's Overview and Scrutiny Committees ensuring effective consideration and scrutiny by the committee of decisions, proposals and reports of the Executive relating to the remit of the Policy and Performance Committee or Community and Regeneration Committee, as appropriate.

Duties and responsibilities (in addition to those of a Chairman of a committee):

- (a) At all times to use their own discretion and act in the interests of the Council and not of their political group.
- (b) To lead the committee on scrutiny of the Council's policies, budget, strategies and service delivery as appropriate to the remit of their committee.
- (c) To set the agenda for committee meetings, with assistance from officers.
- (d) To programme and manage reviews relevant to their committee within the agreed work programme.
- (e) To lead on the decisions, responses or recommendations, post scrutiny, to the Executive or relevant officers.
- (f) To represent the committee's views and present its resolutions to meetings of the Cabinet, Council or other committees.
- (g) To promote the role of overview and scrutiny within and outside the Council.
- (h) To meet regularly with relevant officers to ensure the receipt of appropriate independent advice.
- (i) To determine whether a key questions meeting is necessary prior to a meeting of the committee and, if so, to attend it together with the Controlling Group Spokesperson and other Members in accordance with the approved procedure.



- (j) To be fully aware of the Council's Notice of Forthcoming Key Decisions and to ensure that the committee is able to consider all relevant issues within the timescale set out in the work programme.
- (k) To provide agreement where appropriate for special urgency decisions to be implemented if not in the Notice of Forthcoming Key Decisions, in accordance with relevant guidelines.
- (l) To provide agreement where appropriate for private meetings of the Executive where 28 days' notice has not been given for an exempt item of business.
- (l) To fully involve external stakeholders such as service users, expert witnesses and partners in overview and scrutiny activities.

#### *Policy and Performance*

- (m) To lead on the provision of advice to the Executive on major issues or policies before final decisions are made by the Executive.
- (n) To call in a decision of the Executive or to receive and action requests for an Executive decision to be called in, in accordance with the agreed procedure.
- (o) To ensure regular contact with non-executive Members, community representatives and local stakeholders to inform effective scrutiny of performance management.
- (p) To contribute effectively to the Council's scrutiny process by ensuring the questioning of the relevant officers on performance management.
- (q) To lead in ensuring that appropriate information, training and guidance is available to non-executive Members in scrutinising performance management.

#### *Community and Regeneration*

- (r) To lead on the provision of advice to the Executive on matters regarding community and regeneration and the scrutiny of external reports on community and regeneration.
- (s) To meet regularly with relevant officers to ensure the receipt of appropriate independent advice to inform effective scrutiny of community and regeneration issues.
- (t) To ensure regular contact with non-executive Members, community representatives and local stakeholders to inform effective scrutiny of community and regeneration issues.
- (u) To lead in ensuring contact with non-executive Members, community representatives and local stakeholders to inform effective scrutiny of performance management.

Specific skills required (in addition to those of a Chairman of a committee):

- Confidence in bringing together elected Members, officers, representatives of external bodies and members of the public in order to obtain and evaluate information.
- Questioning and summarising skills.
- Ability to focus on essential issues as a basis for key questions.
- Clear understanding of Council's budget and policies.
- Clear understanding of Council's call-in procedure

#### 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):

- (a) At all times to use their own discretion and act in the interests of Dover District and not of their political group.
- (b) 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.
- (c) Whenever possible to attend and chair site visits, ensuring that the correct procedure is followed and all parties are given an equal opportunity to express their views within that procedure so that Members obtain the necessary information from the visit.
- (d) To act in consultation with the Chief Executive and/or Head of Regeneration and Development in respect of decisions taken in accordance with the Ordinary Decisions (Council Business) Urgency Procedure and to bring such decisions to the attention of the Committee.
- (e) 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.

##### Specific skills required (in addition to those of a Chairman of a Committee):

- Clear understanding of Council's development control function, planning application procedures and processes.
- Working knowledge of Town and Country Planning laws and relevant planning policies.
- Understanding of the Local Development Framework process.
- Ability to conduct site visits

#### 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):

- (a) To be conversant with the protocols and practices of the Council insofar as they affect the conduct of elected District or Parish councillors.
- (b) To be fully conversant with the Council's Code of Conduct, and the arrangements for dealing with Code of Conduct complaints under the Localism Act 2011.
- (c) To submit a report to the Annual Meeting of the Council on the work of the Standards Committee during the previous year.

Specific skills required (in addition to those of a Chairman of a Committee):

- Good interpersonal, questioning, analytical and summarising competencies.
- Clear understanding of the Members' Code of Conduct and its implications for Councillors together with Members' Disclosable Pecuniary Interests and Other Significant Interests.
- Ability to be completely impartial when dealing with elected councillors, officers and members of the public.

**6. Chairman of Licensing/Regulatory Committee**

Purpose of Role:

To chair meetings of the Council's Licensing Committee and/or Regulatory 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 licensing matters brought to Committee.

Duties and responsibilities (in addition to those of a Chairman of a Committee):

- (a) At all times to use their own discretion and act in the interests of the Licensing Authority and not of their political group.
- (b) 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.
- (c) To liaise with the Council's Licensing Team Leader and the Legal Section as necessary.
- (d) 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 Committee.
- (e) 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 Regulatory Committee.

- (f) To be prepared to appear before a Magistrates' Court as a witness for the Council in the case of an appeal made against the decision of the Regulatory Committee.
- (g) To undertake training on new or amended legislation, regulations or procedures as required.

Specific skills required (in addition to those of a Chairman of a Committee):

- Clear understanding of Council's licensing function, licence application procedures and processes.
- Good interpersonal, questioning, analytical and summarising competencies.
- Understanding of legal procedures and processes.

## **7. Chairman of Governance Committee**

Purpose of Role:

To chair meetings of the Council's Governance 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):

- (a) Maintain and update a working knowledge of the Council's financial practices, budget process and timetable, draft and year end accounts.
- (b) Have an overall understanding of the various functions and service areas of the Council with regard to audit reports on performance levels.
- (c) To have a working knowledge of the Council's Constitution in order to undertake reviews and recommend changes to Council.
- (d) To work closely with the Director of Governance, the Head of Audit Partnership and the Director of Finance, Housing and Community in respect of reports to be considered by Committee.
- (e) To undertake training on new or amended legislation, regulations or procedures as required.

Specific skills required (in addition to those of a Chairman of a Committee):

- Attention to detail, analytical and numeracy skills.
- Understanding of corporate risk assessment and management and the system of internal control.
- Ability to clarify and explain detailed information..

## **8. Chairman of General Purposes Committee**

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):

- (a) 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.
- (b) Have an overall understanding of the various functions and service areas of the Council.
- (c) Maintain and update a working knowledge of the Council's terms and conditions of employment.
- (d) To work closely with the Chief Executive, the Head of the East Kent Human Resources Partnership and the Heads of Service as necessary.

Specific skills required (in addition to those of a Chairman of a Committee):

- Excellent interpersonal and communication competencies.
- Ability to remain impartial and objective when dealing with Members and officers.
- Ability to assimilate, clarify and explain detailed information.

**9. Cabinet Member/Portfolio Holder**

Purpose of Role:

- (a) To discharge those executive functions of the Council which the Leader has ascribed to the Cabinet.
- (b) 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):

- (a) 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.
- (b) 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.
- (c) To seek advice from relevant officers before taking any decision which may be within their own delegated authority.
- (d) 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.

- (e) 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.
- (f) To liaise and work with other portfolio holders on cross-cutting areas of responsibility and make recommendations to the Cabinet as appropriate for decision.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) To receive representations from Members acting in their capacity as Ward members in relation to the provision of services to residents within their area.
- (k) To exercise delegated powers in accordance with the Council's Constitution.
- (l) To make a decision in accordance with Part 3; section 3; paragraph C13 of the Council's Constitution in a case where a matter is urgent and cannot wait for the next meeting of the Cabinet.

Specific skills required (in addition to those of a Ward Councillor):

- Ability to analyse complex issues.
- Understanding of local government and national statutory and financial frameworks.
- Understanding of the Council's Corporate Plan, annual budget, and relevant portfolio issues.

**10. Leader of the Council**

Purpose of Role:

- (a) To discharge or make arrangements for the discharge of functions which are the responsibility of the executive.
- (b) To provide strategic direction and political leadership to the Council and lead in its relations with government, other public bodies, partner organisations and the media.
- (c) To be responsible for:
  - Leadership
  - Policy co-ordination and development
  - Partnership development

- Strategic budget co-ordination
- Communications
- Corporate Plan
- Community Strategy

Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):

- (a) 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.
- (b) 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.
- (c) 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.
- (d) To lead the development of local, regional, national and European policy and strategic partnerships.
- (e) To lead in developing partnerships with agencies, residents of the Dover District 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.
- (f) To be the key contact for outside organisations including central government.
- (g) To positively promote the Council and the District in the media and to act as the political spokesperson for the Council.
- (h) To promote the long-term financial, business and economic stability of the Council.
- (i) To ensure that the recommendations of the Overview and Scrutiny Committees are fully considered in the formulation and development of Council policy.
- (j) To appoint members of the Cabinet and determine the individual portfolio holders.
- (l) To act as consultee where appropriate on decisions taken between meetings of Cabinet as set out in Part 3; Section 3; paragraph C13 of the Council's Constitution.
- (m) To give an oral report of the business of the Executive to each ordinary meeting of Council.

Specific skills required (in addition to those of a Ward Councillor and Chairman of a Committee):

- Effective leadership including chairing meetings and facilitating discussion.
- Business and financial acumen including understanding and managing the Council's budget.
- Excellent political knowledge and awareness.
- Ability to work effectively with officers, public, media and outside organisations

## 11. **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):

- To assist and work with the Leader of the Council.
- To act in the Leader's place when the Leader is unable to act or the office of Leader is vacant.
- To carry out such duties and undertake portfolio responsibility as delegated by the Leader of the Council.

## 12. **Leader of the Major Opposition Group**

### Purpose of Role:

- To provide leadership to the Council's major opposition group.
- 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):

- To provide overall leadership to the Council's major opposition group.
- 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.
- To act as the principal political spokesperson for the major opposition group.
- To meet regularly with their group members to ensure good communications and to inform effective opposition
- To maintain effective relationships with the Leader of the Council, members of the Executive, the Chief Executive, Heads of Service and other relevant senior officers, meeting them as required to ensure effective briefings on service and relevant corporate areas and any other relevant issues pertaining to the Council.



- (f) To nominate members of their group to serve on Committees and Sub-Committees of the Council.
- (g) 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.

**13. 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):

- (a) To provide constructive challenge to the policies of the administration.
- (b) To assist in shaping the policy of the opposition group with regard to its shadow portfolio.
- (c) To liaise and work with other shadow portfolio holders on cross-cutting areas of responsibility.
- (d) To receive briefings at regular intervals from senior officers of the Council as required.
- (e) To participate effectively as a member of the Shadow Cabinet by becoming thoroughly conversant with the area of expertise relevant to their specific portfolio.

Specific skills required (in addition to those of a Ward Councillor):

- Understanding of key policy areas relevant to the shadow portfolio.
- Understanding of local government and national statutory and financial frameworks.
- Understanding of the Council's Corporate Plan, annual budget and key policy documents.

14. **Chairman of the Council** (Article 5)

Purpose of Role:

The Chairman will be elected by the Council annually to:

- (a) Be the Civic Head of the Council representing the Council as a whole in all civic and ceremonial matters.
- (b) Preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community.

Duties and responsibilities (in addition to those of a Ward Councillor and Chairman of a Committee):

*Ceremonial Role*

- (a) 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 and which represent the work of the Executive.
- (b) To positively promote the Council and the District.

[The Chairman has social precedence in the Dover District by virtue of the Local Government Act 1972 (but not so as to prejudicially affect Her Majesty's royal prerogative)].

*Chairing the Council Meeting*

- (a) To uphold and promote the purposes of the Council's Constitution and to interpret the Constitution when necessary.
- (b) To preside over meetings of the Council in an impartial manner.
- (c) 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.
- (d) To promote public involvement in the Council's activities.
- (e) To be the conscience of the Council.
- (f) In the absence of the chairman of a relevant Overview and Scrutiny Committee to give consent under the Urgency Procedures to enable executive decisions to be made outside the Budget or Policy Framework.
- (g) To be the arbiter in respect of appropriate decisions taken between meetings of Cabinet where the call-in procedure should not apply.

Specific skills required (in addition to those of a Ward Councillor and Chairman of a Committee):

- Chairing meetings in an effective and impartial manner.
- Knowledge of the Council's Constitution and procedures.
- Public relations experience and skills.
- Tact, diplomacy and respect for the position of first citizen of the District.
- Confidence in instructing the Chairman's Chauffeur and Attendant on matters affecting the Chairman's civic role.

15. **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:

- (a) To attend such civic functions and events as shall be requested by the Chairman.
- (b) To assist the Chairman at meetings of Council as necessary.

## Article 3 – Citizens and The Council

### 3.01 Citizens' rights

Citizens 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. Reference should also be made to the section headed Citizens' Rights contained in the Summary and Explanation (Page 8):

- (a) **Voting and petitions.** Citizens 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.** Citizens 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;~~ attend meetings of the Executive and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private
  - (iii) find out from the ~~forward plan~~ notice of forthcoming key decisions what key decisions will be taken by the executive and when;
  - (iv) see reports and background papers, except where confidential or exempt information is being reported, and any records of decisions made by the Council and the executive; and
  - (v) inspect the Council's accounts and make their views known to the external auditor; and
  - (vi) make a request for information pursuant to the Freedom of Information Act 2000.
- (c) **Participation.** Citizens have the right to submit petitions to the Proper Officer, participate in the Council's public question time and contribute to reviews by overview and scrutiny committees.
- (d) **Complaints.** Citizens 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) the Monitoring Officer about an alleged breach of the Councillors' Code of Conduct.

### 3.02 Citizens' responsibilities

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

## Article 4 – The Full Council

### 4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

(i) **Statutory:**

- Sustainable Community Strategy;
- Crime and Disorder Reduction Strategy;
- Local Transport Plan (District Strategy);
- Plans and strategies which together comprise the Development Plan;
- Formulating a plan or strategy for the control of the authority's borrowing or capital expenditure;

(ii) **Non-Statutory:**

- Council's Corporate Plan;
- Any other plans or strategies which the Council may decide should be adopted by it;

The Council may from time to time review the list of plans and strategies which form the Policy Framework where there is a local choice. For clarification where a plan or strategy is not part of the Policy Framework the plan or strategy in question shall be subject to approval by the executive.

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, 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.

The budget for each financial year will (after approval by full Council) be set out in a Budget Book prepared by the Section 151 Officer and circulated to all members and officers.

(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**

Only the Council can exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) changes to the form of executive;
- (c) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (d) 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;
- (e) electing the Chairman and Vice-Chairman of the Council;
- (f) electing the Leader of the Council for a four year term;
- (g) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (h) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (i) adopting an allowances scheme under Article 2.05;
- (j) changing the name of the area or conferring the title of honorary alderman;
- (k) confirming the appointment of the head of paid service or any new appointments where the proposed salary is to exceed £100,000;
- (l) confirming any severance payments awarded in excess of £100,000;
- (m) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (n) approving the Scheme of Delegations in relation to non-executive functions;
- (o) various electoral and parish matters;
- (p) 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;
- (q) approval or adoption of the investment strategy; and
- (r) all other matters which, by law, must be reserved to Council.

Reference should also be made to the allocation of functions set out in Part 3 (Responsibility for Functions) (Section 2) which lists all of the functions which are made the responsibility of the full Council.

#### 4.03 **General Purposes Committee**

This Committee will consider matters between Council meetings. Council business will be discharged through this Committee in accordance with the Budget and Policy Framework such as changes to the Council's terms and conditions of employment. An extraordinary meeting of the Council would be convened for all business contrary to the Budget and Policy Framework or involving the creation of new policy. The Committee may not discharge those powers and functions:

- (a) Specifically reserved by paragraph 4.02(a)-(q) of Article 4; or
- (b) Those which are within the remit of another Council Committee.

#### 4.04 **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.

#### 4.05 **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 executive.

#### 4.06 **Seating**

The Council has approved a convention for seating at meetings of Full Council whereby the Chief Executive and the Monitoring Officer (or their representatives) will be seated in close proximity to the Chairman and the Vice-Chairman and all other Members will be seated in the main part of the Council Chamber (ie seated in the two "horseshoes").

*References: Local Authorities (Functions and Responsibilities) (England) Regulations 2000  
Chapters 2 and 9, DETR Guidance*



## **Article 5 – Chairing The Council**

### **5.01 Role and function of the Chairman**

The Chairman of the Council and in his/her absence, the Vice-Chairman will have the following roles and functions:

#### **CEREMONIAL ROLE**

The Chairman will represent and promote the Council as a whole and its area in all civic and ceremonial matters.

The Chairman has social precedence in the district by virtue of the Local Government Act 1972 (but not so as to prejudicially affect Her Majesty's royal prerogative).

Note: The Chairman and the Leader of the Council shall together determine criteria for deciding which functions require a civic/ceremonial presence and which functions represent the work of the executive. If there is any overlap or difference of opinion both may attend the event.

#### **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 executive or do not hold committee chairs are able to hold the executive and committee chairmen to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council;
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate;
7. in the absence of a chair of a relevant overview and scrutiny committee to give consent under the Urgency Procedures to enable executive decisions to be made outside the Budget or Policy Framework; and
8. to be the arbiter in respect of urgent decisions where the call-in procedure should not apply.

The Chairman and Vice-Chairman of the Council cannot be elected as Leader or be appointed to the Cabinet.

*References: Sections 3, 5, 245; Schedule 2, 12; Local Government Act 1972  
Schedule 3, Local Government Act 2000  
Chapters 2, 4 and 9, DETR Guidance*

## Article 6 – Overview and Scrutiny Committees

### OVERVIEW AND SCRUTINY – GENERAL COMMENTS

The overview and scrutiny function is central to the constitution. Government guidance makes it clear that overview and scrutiny committees should be powerful committees which meet in public to discuss and make recommendations on the development of policies and hold the executive to account for its actions. They also have a key role in considering other matters of local concern. The only other specific function which they may be empowered to undertake is the conduct of best value reviews.

The rules for how overview and scrutiny committees operate are set out in the overview and scrutiny procedure rules which are contained in Part 4 of the constitution.

### CO-ORDINATING OVERVIEW AND SCRUTINY

The Council acknowledges the need to co-ordinate overview and scrutiny arrangements within the Council's decision-making structure. The co-ordination of overview and scrutiny shall be the responsibility of the Scrutiny (Policy and Performance) Committee whose role will include:

- (a) To co-ordinate call-in arrangements;
- (b) To identify the need for resources to support scrutiny arrangements;
- (c) To facilitate the allocation of issues for scrutiny to the relevant Scrutiny Committee(s);
- (d) To oversee the work programmes of Scrutiny Committees;
- (e) To ensure that scrutiny arrangements support the Council's decision-making processes.

#### 6.01 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

<b>Scrutiny – Areas of remit</b>	
Scrutiny (Policy and Performance) Committee	<ol style="list-style-type: none"><li>1. Budget and Major Policy</li><li>2. Call-in</li><li>3. Performance Monitoring and Improvement</li><li>4. Scrutiny Co-ordination (including the allocation of all overview and scrutiny functions not within the specific remit of the Scrutiny (Community and Regeneration) Committee)</li></ol>

<b>Scrutiny – Areas of remit</b>	
Scrutiny (Community and Regeneration) Committee	1. Community Reviews and Accountability 2. Public Health 3. Major Projects 4. Crime and Disorder

## 6.02 General role

Within their terms of reference, overview and scrutiny committees will:

- (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (ii) make reports and/or recommendations to the full Council and/or the executive in connection with the discharge of any functions;
- (iii) consider any matter affecting the area or its inhabitants; and
- (iv) reconsider decisions made but not yet implemented by the executive (following the exercise of the right of call-in).

## 6.03 Specific functions

- (a) **Policy development and review.** Overview and scrutiny committees may:
  - (i) assist the Council and the executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  - (ii) conduct research and undertake community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
  - (v) 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.
- (b) **Scrutiny.** Overview and scrutiny committees may:
  - (i) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in

comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

- (iv) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the overview and scrutiny committee and local people about their activities and performance; and
  - (vi) question and gather evidence from any person (with their consent).
- (c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

#### 6.04 **Proceedings of overview and scrutiny committees**

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

*References: Section 21 and Schedule 1 (Paragraphs 7, 8, 10 and 11), Local Government Act 2000  
Chapters 3 and 9, DETR Guidance*

## **Article 7 – The Executive**

### **THE ROLE OF THE EXECUTIVE**

The executive is at the heart of the day-to-day decision-making process. It has a key role in proposing the budget and policy framework to the Council for adoption and is responsible for making and implementing executive decisions in accordance with the approved budget and policy framework.

Provision has been made in the constitution for both collective decision-making and decision-making by the Leader of the Council and individual elected members.

The rules for how the Leader and the executive will operate are set out in the Leader and Executive Procedure Rules which are contained in part 4 of the constitution.

#### **7.01 Role**

The executive (meaning the Leader of the Council and such other Members of the Council as the Leader may appoint) 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. The Leader may however, make arrangements to delegate some matters to the Cabinet, a Cabinet Committee, individual Cabinet members, or to officers.

#### **7.02 Form and composition**

The executive will consist of the Leader of the Council together with at least two, but not more than nine, councillors appointed to the executive by the Leader.

#### **7.03 Leader**

The Leader will be a councillor elected to the position of leader by the Council at the Annual Meeting of the Council following on from the ordinary election of all Councillors for a four year term. The Leader will hold office until:

- (a) S/he resigns from the office; or
- (b) S/he is no longer a councillor except where the Leader of the Council fails to be returned as a Councillor following an ordinary election of all Councillors when unless the Leader resigns, is disqualified or is otherwise removed from office s/he shall continue as Leader until the day of the Annual Meeting; or
- (c) S/he is removed from office by resolution of a simple majority of the Council.

#### **7.04 Deputy Leader**

The Deputy Leader will be a councillor appointed to the position of Deputy Leader by the Leader of the Council for a four year term at the Annual Meeting of the Council following on from the ordinary election of all Councillors. The Deputy Leader shall hold office until:

- (a) S/he resigns from office; or

- (b) S/he is no longer a councillor; or
- (c) S/he is removed from office by the Leader of the Council; or
- (d) The expiry of the term of office of the Leader of the Council.

If for any reason the Leader of the Council is unable to act or the office of Leader is vacant the Deputy Leader must act in her/his place.

#### 7.05 **Other executive members**

In addition to the Deputy Leader, the Leader of the Council must appoint at least one other councillor as a member of the executive (also known as a Portfolio Holder) for a four year term at the Annual Meeting of the Council following on from the ordinary election of all Councillors. Members of the executive shall hold office until:

- (a) S/he resigns from office; or
- (b) S/he is no longer councillors; or
- (d) S/he is removed from office by the Leader of the Council.

If for any reason the Leader of the Council is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant, the executive must act in the Leader's place or must arrange for a member of the Cabinet to act in her/his place.

In the event of there being no Leader, Deputy Leader or Cabinet members, executive functions shall in the interim be carried out by the Chief Executive subject to the Access to Information Procedure Rules.

#### 7.06 **Proceedings of the executive**

Proceedings of the executive shall take place in accordance with the Leader and Executive Procedure Rules set out in Part 4 of this Constitution.

## 7.07 Responsibility for functions

The Leader will be responsible for allocating executive functions and shall maintain a list (contained in Part 3 of this Constitution) setting out which individual members of the executive, committees of the Cabinet, officers or joint or other bodies are responsible for the exercise of particular executive functions.

In particular, the Leader may:

- (a) Allocate areas of responsibility to those Members.
- (b) Discharge executive functions or make arrangements for their discharge by the executive collectively, committees of the executive, individual Portfolio Holders, an area committee or Officers of the Council.

All the Leader's arrangements under paragraph 7.07 will be effective from the time the Leader makes them. A notice of these arrangements will be published.

## 7.08 Lead Members

The Leader will be responsible for the appointment and removal of Lead Members who will advise and assist Portfolio Holders. The Leader will be responsible for determining the number of Lead Members and allocating their responsibilities and shall maintain a list setting out the responsibilities of each individual Lead member. Lead Members may not discharge any function of an Executive Member and are not members of the Executive.

The lists (and any amendments) shall be reported to the Council.

*References: Section 11 and Schedule 1, paragraphs 1, 2, 3, Local Government Act 2000  
Chapters 4, 14, and 15, DETR Guidance*



## **Article 8 – Regulatory and Other Committees**

### **8.01 Regulatory and Other Committees**

The Council will appoint the following committees to discharge the functions as set out respectively in Part 3 of this Constitution (Responsibility for Functions).

- Planning Committee
- Regulatory Committee
- Standards Committee
- Joint Staff Consultative and Joint Health, Safety and Welfare Consultative Fora
- Scrutiny Committees
- Dover Joint Transportation Board
- Licensing Committee
- Governance Committee
- General Purposes Committee
- East Kent (Joint Arrangements) Committee
- Electoral Matters Committee

### **8.02 Governance Committee**

The purpose of a Governance Committee is to provide independent assurance of the adequacy of the authority's control and risk management framework, and the associated control environment. The Governance Committee will undertake independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment, and oversee the financial reporting process. The Governance Committee will also sit as the Council's Audit Committee receiving reports from both internal and external audit, approving the audit programmes and ensuring sufficient resources to deliver the internal audit service.

## Article 9 – The Standards Committee

### 9.01 Standards Committee

The Council may establish a Standards Committee.

### 9.02 Composition

- (a) **Membership.** The Standards Committee membership will be set by the full Council. It currently comprises seven district councillors;
- 
- (b) **Political Balance.** The Standards Committee must comply with the political balance rules in section 15 of the Local Government and Housing Act 1989.
- (c) **Quorum.** The quorum for a meeting of the Standards Committee shall be one quarter of the whole number of members provided that it shall not comprise less than three members.
- (d) **Substitutes.** Substitutes shall be appointed in accordance with the Council's Procedure Rules.

*References: Localism Act 2011*

## **Article 10 – Area Committees and Forums**

### **10.01 Area Committees**

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.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees.

### **10.02 Neighbourhood Forums**

Neighbourhood Forums were established in 2006. The Forums connect the three tiers of local government (County, District and Town/Parish Councils), engaging with the community to address issues of local concern. The Forums are advisory to both DDC and KCC's respective Cabinets. The District is split into five Forums, according to the KCC divisions. The Forums are Dover West, Dover North, Dover Town, Sandwich and Deal & Walmer. The Forums meet in public and have funding for supporting local community projects (improving the area/residents' quality of life) in line with the DDC Corporate Plan and Community Strategy, KCC's document 'Towards 2010' and should also take into account any Parish Plans for the respective area. KCC is the accountable body for any funding.

The Forums are designed to encourage and enhance the move to localism and neighbourhood empowerment giving local people greater power and influence over their lives, the services they use and places they live.

The Forums will consider matters relating to:

- (i) provision and performance for services provided on a statutory basis by both councils;
- (ii) services provided by Police, Fire and Rescue and Health Authorities where these impact upon local communities; and
- (iii) input to, and outputs from, the Local Strategic Partnership.

The Neighbourhood Forums will also be a forum for consultation between the Councils and with the public on policies, plans, and strategies.

The Neighbourhood Forums may also review performance of services and service providers and, as a consequence, make recommendations in an advisory capacity to the Cabinets of the respective Councils.

The Dover District Council Cabinet Member responsible for Neighbourhood Forums will brief the Cabinet on issues arising from Forum meetings and will report back to the Forums on the Cabinet's views.

### **10.03 Conflicts of interests – 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 any neighbourhood forums 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.

#### 10.04 **Neighbourhood Forums – access to information**

Any neighbourhood forums will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for neighbourhood forum meetings which deal with both functions of the executive and functions which are not the responsibility of the executive will state clearly which items are which.

#### 10.05 **Executive members on Neighbourhood Forums**

A member of the executive may serve on a neighbourhood forum if otherwise eligible to do so as a councillor.

*References: Part VA, Local Government Act 1972  
Section 13, Local Government and Housing Act 1989  
Reg 4, 5 and 16A Local Government (Committees and Political Groups) Regulations 1990  
Section 18, Local Government Act 2000  
The Local Authorities (Functions and Responsibilities) (England) Regulations 2000  
Chapters 6 and 9, DETR Guidance*

## **Article 11 – Joint Arrangements**

### **11.01 Arrangements to promote well-being**

The Council or the Leader of the Council, 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 Leader of the Council 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 Leader of the Council may only appoint executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Leader of the Council may appoint members to a joint committee from outside the executive 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 Leader of the Council 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 Parts 8 and 9 of this Constitution.
- (f) Dover Joint Transportation Board: In accordance with an agreement made between Kent County Council and Dover District Council, a Dover Joint Transportation Board has been established by the executives of Kent County Council and Dover District Council. The Board advises the executives of Kent County Council and Dover District Council on decisions to be taken by the relevant executive in relation to functions specified in the Agreement. Further details of the Board's Constitution are set out in Part 3 Section 6 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 Leader of the Council may delegate executive functions to another local authority or the executive 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 non-executive functions) and the Leader of the Council and executive (for executive functions) 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.

*References: Sections 2, 19, 20 LGA 2000  
 Chapters 6 and 9, DETR Guidance  
 The Local Authorities (Arrangements for the Discharge of Functions)  
 (England) Regulations 2000*

## Article 12 – Officers

### TERMINOLOGY

The use of the words "officers" means all employees and staff engaged by the Council to carry out its functions. This word has also been used instead of "employees" to cover those engaged under short term, agency or other non employed situations.

#### 12.01 Management structure

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

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Leadership and strategic direction and management Provision of external focus Development of partnership and joint working arrangements Member relationships Major projects drive Change management Policy development Development Management Regeneration Delivery
Director of Governance (and Monitoring Officer)	Governance Democratic processes Legal Regulatory Corporate Performance management
Director of Finance, Housing and Community (and Section 151 Officer)	Financial management and budgetary control Accountancy Communication and Engagement Procurement Internal Audit Strategic Housing

<b>Post</b>	<b>Functions and areas of responsibility</b>
Director of Environment and Corporate Assets	Anti-Social Behaviour Building Control Community Safety Museums and Tourism Parking and CCTV Property Services Waste

- (c) **Head of Paid Service, Monitoring Officer and Section 151 Officer.** The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Director of Governance	Monitoring Officer
Director of Finance, Housing and Community	Section 151 Officer

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

- (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) **Corporate Management Team.** The Corporate Management Team shall comprise the Chief Executive (and Head of Paid Service), Director of Governance, Director of Finance, Housing and Community and Director of Environment and Corporate Assets.

The Corporate Management Team is not a decision-making body and its meetings will not be held in public.

- (f) **Leadership Forum.** The Leadership Forum comprises the Leader of the Council, the Chief Executive, members of the executive, members of the Corporate Management Team and supporting officers.

In exercising their respective leadership roles, and as part of any effective working arrangements, it is necessary for the Leader and the Chief Executive to meet informally from time to time with members of the executive and members of the Corporate Management Team.

A Leadership Forum will therefore be held to enable regular and scheduled discussions to take place between members of the executive and members of the Corporate Management Team.

The purpose of the Leadership Forum is therefore to

- facilitate discussions on general or particular issues or enable clarification of matters between Leader, the Chief Executive, members of the executive, members of the Corporate Management Team
- assist in settling the Notice of Forthcoming Key Decisions.



- assist in identifying items for consideration at future meetings of the Cabinet.

The Leadership Forum is not a decision making body and its meetings will not be held in public.

#### 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 Section 151 Officer if a qualified accountant.
- NB In the absence of the Head of Paid Service at any meeting of the Council, the Director of Governance or nominee shall act on his behalf for the purposes of the conduct of that meeting.

### 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.** After consulting with the Head of Paid Service, the Director of Finance, Housing and Community and the Solicitor to the Council, the Monitoring Officer will report to the full Council or to the Leader and executive in relation to an executive function if he or 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) **Member Code of Conduct.** The Monitoring Officer will discharge those functions ascribed to him under the arrangements for dealing with Code of Conduct complaints under the Localism Act 2011.
- (d) **Proper officer for access to information.** The Monitoring Officer will ensure that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (e) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional governance advice.
- (f) **Advising whether executive decisions are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the executive 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 Section 151 Officer or the Head of Paid Service.

### 12.04 Functions of the Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the full Council or to the Leader and executive in relation to an executive function and the Council's external auditor if he or 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 Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

- (c) **Contributing to corporate management.** The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Section 151 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 Section 151 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 the Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 12.06 **Solicitor to the Council**

The Solicitor to the Council shall have full access to the Council and the Executive, to all Committees and Sub-Committees of the Council and the Executive and to all Chief Officers on all matters of legal professional business.

#### 12.07 **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.

#### 12.08 **Employment**

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

*References: Chapters 8 and 9, DETR Guidance  
Sections 4 and 5, Local Government and Housing Act 1989  
Sections 60, 64–66, Local Government Act 2000*

## **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 contained 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) Proportionality (ie the action must be proportionate to the desired outcome);
- (b) Due consultation and the taking of professional advice from officers;
- (c) Respect for human rights (see below for further details);
- (d) A presumption in favour of openness; and
- (e) Clarity of aims and desired outcomes.

### **13.03 Types of decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.02 and Section 2 of Part 3 (Responsibility for Functions) will be made by the full Council and not delegated.
- (b) Key decisions. In this Constitution, a 'key decision' shall mean an executive decision which is likely:
  - (i) To result in the Council incurring expenditure which is, or savings which are, significant having regard to the Council's budget for the service or function to which the budget relates;
  - (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; or
  - (iii) To have a particularly significant impact on any community as experiencing social exclusion or discrimination, whether geography or interest defines that community and even if that community is only located in one ward in the area of the local authority.

Notes:

1. In relation to paragraph (i) above, the term "significant" shall be construed as meaning £200,000.
2. In relation to paragraph (ii) above, the Council will unless impracticable, treat as if they were key decisions any decisions which are likely to have significant impact on communities in one ward. Where a decision is only likely to have a significant impact on a very

small number of people in one ward, the decision maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their right to see the relevant papers and make an input into the decision making process.

3. In considering whether a decision is likely to be significant a decision maker will also need to consider the strategic nature of a decision and whether the outcomes have an impact for better or worse on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should be given to the underlying principles of open, transparent and accountable decision making of this Constitution to ensure that there is a presumption towards openness.
4. In interpreting after the event whether or not a decision should or should not have been classified as a key decision, the following will be taken into account:
  - (a) the issue must be assessed on the basis of the information which could reasonably have been available to the decision maker at the time;
  - (b) the "de minimis" rule will be applied (in this context this means that the rule does not apply to trifling, minor or insignificant variations, departures or breaches);
  - (c) the level and nature of advice sought by the decision-maker. The Monitoring Officer and Section 151 Officer will have significant roles to play in this.
5. A decision taker may only make a key decision in accordance with the requirements of the Leader and 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 executive**

Subject to Article 13.08, the executive will follow the Executive 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 Articles 13.08 and 13.09, other Council committees and sub-committees will follow those parts of the Council Procedure 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.

### **13.09 Member Training**

Only members (and substitutes) who have received the appropriate training may serve on Appeals, the Licensing, Regulatory, Governance, Planning and Standards Committee. The training requirements are set out in the Appendix to this article.

*References: Chapter 7, DETR Guidance  
Regulations made under section 22, Local Government Act 2000*

### **Training Criteria for the General Purposes Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 2, Responsibility for Council Functions
- Training provider:** In-house by the Monitoring Officer or Solicitor to the Council
- When:** As required, in advance of the committee meeting. .
- Content:**
1. To understand the functions of the General Purposes Committee and the role individual councillors fulfil on the committee.
  2. An understanding of the relevant legislation
  3. An understanding of the Officer Conditions of Service
  4. Awareness of the procedures to be followed when hearing and then deliberating on an appeal
  5. To understand the appeal processes.
- Period:** **For the four year term of the Council or any part of this period.**

### **Training Criteria for the Licensing Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 2, Responsibility for Council Functions
- Training provider:** In-house by the Licensing Team Leader or an accredited external provider
- When:** At the start of the new 4 year Council and as required, if membership changes or substitutes require training, co-ordinated in advance of the next committee meeting
- Content:**
1. To understand the functions of the Licensing Committee and the role individual councillors fulfil on the committee.
  2. To understand the licensable activities, the licensing objectives and the types of licence.
  3. To understand the Hearing process when considering an application, including what the Sub-Committee can consider and how it makes decisions (e.g. adjournments, information requests and the use of conditions).
  4. To understand the types of applications (application for a licensable activity, variation of an existing licence and a review of an existing licence).
- Period:** **For the four year term of the Council or any part of this period.**



### **Training Criteria for the Regulatory Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 1 and 2, Responsibility for Council Functions
- Training provider:** In-house by the Licensing Team Leader or an accredited external provider
- When:** At the start of the new 4 year Council and as required, if membership changes or substitutes require training, co-ordinated in advance of the next committee meeting
- Content:**
1. To understand the functions of the Regulatory Committee and the role individual councillors fulfil on the committee.
  2. To understand the procedures for hearings at Committee and the type of licensable activities that the Committee may be required to consider.
  3. To understand the Council's policies and guidelines in respect of the Hackney Carriage and Private Hire trades as they affect applications and other matters brought before Committee, including the Council's Fit and Proper Persons policy.
  4. To understand the Council's policies and guidelines in respect of other forms of licensable activities.
  5. To understand the appeal processes.
- Period:** **For the four year term of the Council or any part of this period.**

**Training Criteria for the Governance Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 2, Responsibility for Council Functions
- Training provider:** In-house by the Monitoring Officer and/or S151 Officer
- When:** At the start of the new 4 year Council and as required, if membership changes or substitutes require training, co-ordinated in advance of the next committee meeting
- Content:**
1. To understand the functions of the Governance Committee.
  2. To understand the role individual councillors fulfil on the committee
  3. To understand the role and work of internal audit, including the audit plan, audit assurance levels, risks and controls, audit reports and audit recommendations.
  4. To understand the role of management in agreeing, accepting and then implementing audit recommendations.
  5. To understand the role and work of external audit.
  6. To understand risk management arrangements including risk assessment and risk mitigation.
  7. To understand the Annual Governance Assurance Statement process and the monitoring and follow up actions.
  8. To understand the Council's financial management and reporting process, in particular an understanding of the Statement of Accounts.
- Period:** For the four year term of the Council or any part of this period.

### **Training Criteria for the Planning Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 1, Responsibility for Council Functions
- Training provider:** Either In-house by the Head of Regeneration and Development or a suitably qualified nominee or by an accredited external provider
- When:** At the start of the new 4 year Council and as required, if membership changes or substitutes require training, co-ordinated in advance of the next committee meeting
- Content:**
1. To understand the functions of the Planning Committee and the role individual councillors fulfil on the committee.
  2. To understand the different types of planning application.
  3. To understand planning policy, what a material consideration is and the duties imposed by statute.
  4. To understand the legislation in respect of bias and predetermination and understand the application of the Code of Conduct in respect of the Planning Committee.
  5. To have an understanding of the Protocol on Good Practice in Planning Procedures.
  6. To understand the site visit procedure, including dealing with lobbying from members of the public.
- Period:** **For the four year term of the Council or any part of this period.**

### **Training Criteria for the Standards Committee**

- Constitution:** Part 3, Responsibility for Functions, Section 2, Responsibility for Council Functions
- Training provider:** In-house by the Monitoring Officer or Solicitor to the Council
- When:** At the start of the new 4 year Council and as required, if membership changes or substitutes require training, co-ordinated in advance of the next committee meeting
- Content:**
1. To understand the functions of the Standards Committee.
  2. To understand the role individual councillors fulfil on the committee, in particular in relation to exercising their functions in relation to ethical standards and the new member code of conduct.
  3. To understand the role and responsibilities of the Monitoring Officer.
  4. To understand the role of the Independent Person.
  5. To understand the formal service complaints procedures, the role of the Local Government Ombudsman and the issues relating to maladministration.
- Period:** **For the four year term of the Council or any part of this period.**

## **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 Contract Standing Orders set out in Part 4 of this Constitution.

### **14.03 Legal proceedings**

The Chief Executive in consultation with the Solicitor to the Council is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Executive in consultation with the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

### **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 Chief Executive 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 £100,000 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 office of the Chief Executive.

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 may be affixed to any necessary transfer documents in investment transactions arranged by the Section 151 Officer in accordance with the Council's approved investment policy.

The Common Seal will be affixed to those documents which in the opinion of the Chief Officer (in consultation with the Solicitor to the Council), should be sealed. The affixing of the Common Seal will be attested by the Chief Executive, the Section 151 Officer, the Monitoring Officer or the Solicitor to the Council and 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 the person who shall have attested the seal. The Officer originating the document shall be responsible for its contents and accuracy.

*References: Sections 135, 151, 223 & 234, Local Government Act 1972  
Part VIII, Local Government Finance Act 1988*

## Article 15 – Review and Revision of the Constitution

### 15.01 Duty to monitor and review the constitution

The Governance Committee, Standards Committee (if matters of probity or conduct may be involved) and the Council's Statutory Officers (the Head of Paid Service, the Monitoring Officer and the Section 151 Officer) shall be responsible for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Review of the Constitution will be carried out

- (a) on an annual basis (this review will be linked to monitoring of the Council's Corporate Governance);
- (b) on an ad hoc basis if and when necessary (eg such a review may be triggered by requests from outside bodies, such as the Ombudsman or from Members (made to full Council) or from the Council's Statutory Officers.

#### Protocol for monitoring and review of constitution

A key role for the responsible committee(s)/statutory officers is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations to Council for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the responsible committee(s)/statutory officers 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 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.** Amendments to the constitution will only be approved by the full Council after consideration of the proposal and report by the Governance Committee, the Standards Committee (if matters of probity or conduct are involved) and the Council's statutory officers.
- (b) **Proposals.** In drawing up proposals to amend the Constitution, the Council will consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

A requirement (if any) to undertake public consultation before the Council approves an amendment to the Constitution will be proportionate to the scale, scope and extent of the change proposed.

- (c) **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 to change the form of executive arrangements.
- (d) **Amendments.** 15.02(a) and 15.02(b) shall not apply to a proposed change of the Constitution which consists solely of amending references to a title of a person or officer which may be approved by the Monitoring Officer or Deputy Monitoring Officer.

*References: Sections 30 and 37, Local Government Act 2000  
Chapters 10 and 15, Guidance*



## **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 by the full Council 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 at least 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
  - Leader and Executive 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 the 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 Monitoring Officer will publish an electronic copy of this Constitution on the Council's website.
- (b) The Monitoring Officer, on receipt of each member's declaration of acceptance of office, will provide the web page address for the Constitution on the Council's website.



## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Executive) and the Leader and Executive Procedure Rules;
3. Article 10 (Area Committees and Forums) (where applicable);
4. Article 11 (Joint arrangements) (where applicable);
5. Article 13 (Decision making) and the Access to Information Procedure Rules;
6. Part 3 (Responsibility for Functions).

## Part 3

### Responsibility for Functions

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# Responsibility for Functions

## Introduction

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 and 13.

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. Regard shall also be had to the Secretary of State's statutory guidance on New Council Constitutions (October 2002) as amended from time to time (referred to in this part as the Guidance).

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 shown below as delegated to the various decision-making bodies listed are further delegated to officers and reference should be made to Section 4.

The Leader of the Council will be responsible for all executive functions as required by the Local Government Act 2000. The Leader may:

- (a) discharge any of those functions; or
- (b) may arrange for the discharge of any of those functions by:
  - (i) the Cabinet
  - (ii) Portfolio Holder
  - (iii) a committee of the Cabinet;
  - (iv) an area committee; or
  - (v) an officer of the authority

## SECTION 1: RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

### **Decision Making Body: The Executive (known as the Cabinet)**

**Membership:** Leader, Deputy Leader and up to eight other members of the authority.

#### **Functions:**

1. Any function under any local Act other than those relating to licensing, registration or regulatory matters that has been delegated to the Executive by the Leader of the Council.
2. In connection with executive functions, the appointment of any individual –

- (a) to any office other than an office in which he or she is employed by the authority;
  - (b) to any body other than –
    - (i) the authority;
    - (ii) a joint committee of two or more authorities or
  - (c) to any committee or sub-committee of such a body,
- and the revocation of any such appointment.
3. The preparation in draft of a strategic policy of the local authority in respect of the following functions or actions:-
- (i) Functions relating to contaminated land.
  - (ii) The discharge of functions relating to the control of pollution or the management of air quality.
  - (iii) The service of an abatement notice in respect of a statutory nuisance.
  - (iv) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
  - (v) The inspection of the authority's area to detect any statutory nuisance.
  - (vi) The investigation of any complaint as to the existence of a statutory nuisance.
  - (vii) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
  - (viii) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

**Decision Making Body: The Council**

**Membership:** 45 members.

**Functions:**

1. The determination of an appeal made against any decision made by or on behalf of the authority.
2. In connection with non-executive (Council) functions, the appointment of any individual –
  - to any office other than an office in which he or she is employed by the authority;
  - to any body other than the authority or a joint committee of two or more authorities; or
  - to any committee or sub-committee of such a body,

and the revocation of any such appointment.

3. The following functions or actions where the function or action involves the approval (as opposed to the preparation in draft) of a strategic policy of the local authority:-
  - (i) Functions relating to contaminated land.
  - (ii) The discharge of functions relating to the control of pollution or the management of air quality.
  - (iii) The service of an abatement notice in respect of a statutory nuisance.
  - (iv) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
  - (v) The inspection of the authority's area to detect any statutory nuisance.
  - (vi) The investigation of any complaint as to the existence of a statutory nuisance.
  - (vii) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
  - (viii) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

**Decision Making Body: Regulatory Committee**

**Membership:** 5 members of the authority.

**Functions:**

1. All regulatory functions under any local Act.
2. The following functions or actions where the function or action involves:
  - determining an application from a person for a licence, approval, consent, permission or registration;
  - direct regulation of a person (with substantial discretion as to the regulatory action); or
  - enforcement of any such licence approval, consent, permission or direct regulation.
  - (i) Functions relating to contaminated land.
  - (ii) The discharge of functions relating to the control of pollution or the management of air quality.
  - (iii) The service of an abatement notice in respect of a statutory nuisance.
  - (iv) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.



- (v) The inspection of the authority's area to detect any statutory nuisance.
- (vi) The investigation of any complaint as to the existence of a statutory nuisance.
- (vii) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

**Decision Making Body: General Purposes Committee**

**Membership:** 5 Members of the authority.

**Functions:**

1. To hear appeals against both disciplinary decisions made by the Chief Executive and decisions taken to dismiss members of the Council's staff made by the members of staff affected except where the Committee itself has exercised the power to dismiss.
2. To consider representations by the member of staff affected, any representative(s) and/or witness(es).
3. To consider representations by the Head of East Kent Human Resources Partnership concerning the appeal.
4. To determine the appeal.
5. To determine whether any grievance lodged against the Chief Executive, Monitoring Officer or Section 151 Officer has any merit and, if so determined, to appoint an independent assessor as contained in these officers' terms and conditions of employment.
6. To determine a grievance against a member of the Corporate Management Team where the employee lodging the grievance remains dissatisfied with the determination of the Chief Executive.

**Decision Making Body: Planning Committee**

**Membership:** 10 members of the authority.

**Functions:**

1. The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
2. The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

## **SECTION 2: RESPONSIBILITY FOR COUNCIL FUNCTIONS**

### **Decision Making Body: The Council**

**Membership:** 45 Members of the Authority.

#### **Functions:**

1. Adoption of the Constitution for new political management arrangements and any subsequent changes to it.
2. Changes to the form of executive.
3. Agreeing or amending the Policy Framework.
4. Agreeing or amending the Budget including:
  - Borrowing or capital expenditure strategy including determination of borrowing limits under Section 45 of the Local Government and Housing Act 1989.
  - Setting the Council Tax including functions referred to in Section 67 of the Local Government Finance Act 1992 (Council Tax calculations etc) and special expenses resolutions.
5. Agreeing revisions to Rules of Procedure under Part 4 of the Constitution and Codes and Protocols under Part 5 of the Constitution.
6. Approving any application to the Secretary of State in respect of any Housing Land Transfer.
7. Decisions in respect of executive functions that are not in accordance with agreed policies and budgets.
8. Making or confirming the appointments of Head of Paid Service, Monitoring Officer and S151 Officer.
9. Adoption of the Scheme of Delegations in relation to non-executive functions.
10. Election of Chairman and Vice-Chairman of the Council.
11. Election of the Leader of the Council.
12. Electoral matters including –
  - Appointment of the Electoral Registration Officer.
  - Appointment of the Returning Officer and Deputy Returning Officer for Local Government Elections and Acting Returning Officer for Parliamentary Elections.
  - Division of the Parliamentary Constituency into Polling Districts.

- Boundary or re-organisation proposals.
13. Consideration of reports of the Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 (as amended).
  14. Consideration of reports of the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 (as amended).
  15. Consideration of reports of the S151 Officer under Section 114 of the Local Government and Housing Act 1989 (as amended).
  16. Adoption of the Members Allowances Scheme.
  17. Making, amendment, revocation or re-enactment of byelaws.
  18. Power to promote or oppose local or private bills.
  19. Overall responsibility for Standards and ethics including:
    - Resolution adopting and amending Codes of Conduct for Members and Officers.
    - Setting up and constitution of Standards Committee.
  20. Appointing the Chairman and Vice-Chairman of the Standards Committee annually.
  21. Determination of the number of Committees, their terms of reference, the total number of places on them and the allocation of those places to Political Groups in accordance with the political balance rules.
  22. Appointment of the Chairmen and Vice-Chairmen of the Overview and Scrutiny Committees annually.
  23. Appointment of the Chairmen and Vice-Chairmen of the Council's Committees .
  24. Power to petition for a charter to confer borough status.
  25. Approval of any change of name of the Council.
  26. Conferring the title of Honorary Alderman or admitting an individual to be an Honorary Freeman.
  27. Agreeing the overall management structure proposed by the Chief Executive as contained in Part 7 of the Constitution.
  28. Statutory duties and powers in relation to parishes and parish councils.
  29. The power to make standing orders.
  30. The duty to make arrangements for the proper administration of financial affairs etc.
  31. Any other matters required by law to be dealt with by the full Council.

**Decision Making Body: General Purposes Committee**

**Membership:** 5 Members of the Authority.

**Functions:**

1. To exercise the powers and functions of the Council within the Budget and Policy Framework other than:
  - (a) Those which are specifically reserved to the full Council by Article 4.02.
  - (b) Those which are within the remit of another committee of the Council.

**Decision Making Body: Planning Committee**

**Membership:** 10 Members of the Authority.

**Functions:**

1. To exercise the powers and duties of the Council conferred by law relating to Town and Country Planning and development control matters, including:
  - (a) Power to determine applications for planning permission.
  - (b) Power to determine applications to develop land without compliance with conditions previously attached.
  - (c) Power to grant planning permission for development already carried out.
  - (d) Power to decline to determine applications for planning permission.
  - (e) Duties relating to the making of determinations of planning applications.
  - (f) Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
  - (g) Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
  - (h) Power to enter into agreements regulating development or use of land.
  - (i) Power to issue a certificate of existing or proposed lawful use or development.
  - (j) Power to serve a completion notice.
  - (k) Power to grant consent for the display of advertisements.
  - (l) Power to authorise entry onto land.
  - (m) Power to require the discontinuance of a use of land.
  - (n) Power to serve a planning contravention notice, breach of condition notice or stop notice.

- (o) Power to issue an enforcement notice.
  - (p) Power to apply for an injunction restraining a breach of planning control.
  - (q) Power to determine applications for hazardous substances consent, and related powers.
  - (r) Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
  - (s) Power to require proper maintenance of land.
  - (t) Power to determine application for listed building consent, and related powers.
  - (u) Power to determine applications for conservation area consent.
  - (v) Duties relating to applications for listed building consent and conservation area consent.
  - (w) Power to serve a building preservation notice, and related powers.
  - (x) Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.
  - (y) Powers to acquire a listed building in need of repair and to serve a repairs notice.
  - (z) Power to apply for an injunction in relation to a listed building.
  - (aa) Power to execute urgent works.
  - (bb) References from statutory undertakers.
  - (cc) Development proposals submitted on behalf of the County Council or District Council.
  - (dd) Issue of certificates of appropriate alternative development.
2. To carry out negotiations with developers to facilitate the development or redevelopment of any part of the District.
  3. To make recommendations to the County Council and to exercise the powers and duties of the District Council in relation to County matters as defined by Schedule 16 of the Local Government Act 1972.
  4. Powers relating to the protection of important hedgerows.
  5. Powers relating to the preservation of trees.
  6. Local choice functions allocated to the Planning Committee as set out in Section 1 of Part 3 of the Constitution.

7. To be consulted by the executive during the formulation or preparation of any plan or strategy to be comprised within the Development Plan.
8. To exercise the powers and functions of the Council under Part 8 of the Anti-Social Behaviour Act 2003.

**Decision Making Body: Regulatory Committee**

**Membership:** 5 Members of the Authority.

**Functions:**

1. To exercise the functions of the Council relating to:
  - (a) Licensing the use of land as a caravan site ("site licences").
  - (b) Licensing the use of moveable dwellings and camping sites.
  - (c) Licensing hackney carriages and private hire vehicles.
  - (d) Licensing drivers of hackney carriages and private hire vehicles.
  - (e) Licensing operators of private hire vehicles.
  - (f) Granting of permits in respect of premises with amusement machines.
  - (g) Registering societies wishing to promote lotteries.
  - (h) Granting permits in respect of premises where amusements with prizes are provided.
  - (i) Licensing of sex shops and sex cinemas.
  - (j) Licensing the performance of hypnotism.
  - (k) Licensing or registration of premises for acupuncture, tattooing, ear-piercing and electrolysis.
  - (l) Licensing of pleasure boats and pleasure vessels.
  - (m) Licensing of market and street trading.
  - (n) Licensing dealers in game and the killing and selling of game.
  - (o) Registration and Licensing of premises for the preparation of food.
  - (p) Licensing of scrap yards and scrap metal dealers.
  - (q) Licensing premises for the breeding of dogs.
  - (r) Licensing of pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
  - (s) Registration of animal trainers and exhibitors.
  - (t) Licensing of zoos.
  - (u) Licensing of dangerous wild animals.
  - (v) Knackers' yards.
  - (w) Licensing of persons to collect for charitable and other causes.
  - (x) Granting of consents for the operation of a loudspeaker.
  - (y) Approving meat product premises.
  - (z) Approving premises for the production of minced meat or meat preparations.
  - (aa) Approving dairy establishments.
  - (bb) Approving egg product establishments.
  - (cc) Licensing of retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.
  - (dd) Approving fish products premises.
  - (ee) Registration of food business premises.
  - (ff) The making of closing orders with respect to take-away food shops.
  - (gg) Power to grant permission for provision, etc. of services, amenities, recreation, and refreshment facilities on the highway and related powers.

- (hh) Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980.
- (ii) Licensing of Riding Establishments.

Including the functions of:

- (1) imposing any condition, limitation or other restriction on any such approval, consent, licence permission or registration granted
- (2) determining any other terms to which any such approval, consent, licence, permission or registration is subject
- (3) determining whether, and in what manner to enforce
  - (a) any failure to comply with any such approval, consent, licence, permission or registration
  - (b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject
  - (c) any other contravention in relation to a matter with regard to the function of determining an application for any such approval, consent, licence, permission or registration
  - (4) amending, modifying or varying any such approval, consent, licence permission or registration, or any condition, limitation or term to which it is subject.
  - (5) revoking or suspending any such approval, consent, licence permission or registration.
  - (6) determining appeals against refusal and revocation of registration of door staff/supervisors.
- 2. Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.
- 3. Local choice functions allocated to the Regulation and Licensing Committee as set out in Section 1 of Part 3 of the Constitution.

**Decision Making Body: Scrutiny Committees**

**A. Committee: Scrutiny Committee (Policy and Performance)**

**Membership:** 10 Members of the Authority.

**Functions:**

- 1. Budget and Major Policy
- 2. Call-in
- 3. Performance Monitoring and Improvement

4. Scrutiny Co-ordination (including the allocation of all overview and scrutiny functions not within the specific remit of the Scrutiny (Community and Regeneration) Committee)

**B. Committee: Scrutiny Committee (Community and Regeneration)**

**Membership:** 10 Members of the Authority.

**Functions:**

1. Community Reviews and Accountability
2. Public Health
3. Major Projects
4. Crime and Disorder

**Decision Making Body: Governance Committee**

**Membership:** 6 Members of the Authority.

**Functions:**

1. To agree and then periodically review the Terms of Reference in relation to the Internal Audit function.
2. To ensure effective internal audit and internal control arrangements.
3. To receive the Internal Audit Annual Programme of work.
4. To receive audit activity reports and the assurances contained therein relating to the level of internal control and risk management across the Council.
5. Ensure that audit recommendations agreed by management are implemented effectively.
6. To consider external audit reports and make recommendations to the Council.
7. To ensure the effectiveness of the Council's risk management arrangements.
8. To seek assurances that effective action is being taken on risk and internal control related areas of weakness.
9. To receive the Statement of Internal Control and to monitor the implementation of the action plan.
10. To approve the Council's Statement of Accounts, as required by prevailing legislation.
11. Monitor and review the Constitution and make recommendations to the Council.
13. To consider the reports of the Joint Independent Remuneration Panel and make recommendations to the Council.



14. Independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment.

**Decision Making Body: Standards Committee**

**Membership:** 7 Members of the Authority

**Functions:**

To discharge the functions of the Council relating to Standards contained in Part 1, Chapter 7 of the Localism Act 2011 (other than those which are reserved to Council by law) including:

1. To promote and maintain high standards of conduct by Members and Co-opted Members of the District Council and to make recommendations to Council on improving standards.
2. To advise and assist Town and Parish Councils and Town and Parish Councillors to maintain high standards of conduct and to make recommendations to Town and Parish Councils on improving standards.
3. To advise the District Council on the adoption of or revisions to its Code of Conduct.
4. To advise, train or arrange to train District Members, Co-opted Members and Town and Parish Councillors on matters relating to the Code of Conduct.
5. To assist the District Councillors, Co-opted Members and Town and Parish Councillors to observe their respective Codes of Conduct.
6. To monitor and assess the operation and effectiveness of the Code of Conduct and to review and manage the Arrangements for dealing with Code of Conduct Complaints.
7. To advise on local ethical governance protocols and procedures.
8. To maintain oversight of the District Council's arrangements for dealing with Code of Conduct complaints.
9. To act as an advisory body in respect of any ethical governance matter.
10. To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
11. To receive reports from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
12. To receive an annual report on the District Council's ethical governance arrangements.
13. To appoint a [Hearing Panelsub-committee](#) to deal with Code of Conduct complaints following investigation.

14. To grant dispensations pursuant to S33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct where:
  - (a) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter.
  - (b) that the authority considers that the dispensation is in the interests of persons living in its area; or
  - (c) where the Committee considers that it is otherwise appropriate to grant a dispensation.
15. To monitor complaints handling and Ombudsman investigations and to make payments or provide other benefits in cases of maladministration.
16. To deal with any alleged breaches by councillors of local protocols adopted by the Council including the Protocol for Good Practice in Planning Procedure and the Protocol for Officers and Members for Dealing with Conflicts of Interest of Councillors in Professional Practice.

**Decision Making Body: Licensing Committee**

**Membership:** 15 Members of the Authority (and shall not be required to be politically balanced).

**Functions:**

1. Discharge those functions referred to by Section 7(1) of the Licensing Act 2003 (licensing functions).
2. Consider and report upon any recommendation or report of the Council or its Committees or the Executive and its Committees on any matters referred to it which relate to a licensing function.
3. Make recommendations to the Council or its Committees or to the Executive and its Committees on any matter relating to a licensing function.

**Decision Making Body: Licensing Sub-Committee**

**Membership:** Each to comprise 3 Members of the Authority appointed by the Licensing Committee (and shall not be required to be politically balanced)

**Functions:**

1. To discharge the functions under Section 18(3) relating to determining applications for premises licences where there are relevant representations.
2. To discharge the functions under Section 31(3) relating to determining applications for provisional statements where there are relevant representations.

3. To discharge the functions under Section 35(3) relating to determining applications for variations to premises licences where there are relevant representations.
4. To discharge the functions under Section 39(3) relating to determining applications to vary the designated premises supervisor where there is police objection.
5. To discharge the functions under Section 44(5) relating to determining applications for the transfer of a premises licence where there is police objection.
6. To discharge the functions under Section 48(3) relating to considering police objection to interim authority notice.
7. To discharge the functions under Section 72(3) relating to determining applications for club premises certificates where there are relevant representations.
8. To discharge the functions under Section 85(3) relating to determining applications to vary club premises certificates where there are relevant representation.
9. To discharge the functions under Section 105(2) relating to determining whether to give counter notice where there is police objection to temporary events notices.
10. To discharge the functions under Section 120(7) relating to determining applications for personal licences where there is police objection.
11. To discharge the functions under Section 120(6) relating to determining applications for personal licences where the applicant has unspent convictions.
12. To discharge the functions under Section 121(6) relating to determining applications for the renewal of personal licences where there is police objection.
13. To discharge the functions under Section 121(5) relating to determining applications for the renewal of personal licences where the applicant has unspent convictions.
14. To discharge the functions under Section 124(4) relating to revoking licences where convictions come to light after the grant or renewal of a personal licence.
15. To discharge the functions under Section 52(2) or (3) relating to the determination of applications for the review of premises licences in cases where relevant representations (within the meaning of Section 52(7)) have been made.
16. To discharge the functions under Section 88(2) or (3) relating to the determination of applications for review of club premises certificates in cases where relevant representations (within the meaning of Section 88(7)) have been made.
17. To discharge the functions under Section 167(5) relating to review following closure order in cases where relevant representations (within the meaning of Section 167(9)) have been made.

**Decision Making Body: Electoral Matters Committee**

**Membership:** 5 Members of the Authority.

**Functions:**

1. To consider electoral matters and Boundary Reviews and make recommendations to the Council.
2. To make recommendations on electoral boundaries and associated issues.

### **SECTION 3: RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

#### **A. The Executive**

1. To be responsible for making all executive decisions in respect of functions delegated to it by the Leader of the Council.
2. The Leader of the Council has delegated the discharge of all functions which are the responsibility of the Leader and Cabinet Executive to the Executive which may discharge those functions irrespective of whether they have also been delegated to any other individual members of the Executive, a Committee of the Executive or to an officer of the Council.
3. To be responsible for executive functions which involve a recommendation to the Council with regard to budget and policy proposals.
4. To receive and respond to:
  - (a) reports to the executive from the overview and scrutiny committees, the Head of Paid Service, the Monitoring Officer and the Section 151 Officer.
  - (b) recommendations from Council.

#### **B. Description of Portfolios**

Each member of the executive has a portfolio and the following parts set out a description of each portfolio together with its overall scope and responsibilities.

##### **Portfolio – Leader of the Council**

The Leader of the Council provides strategic and political leadership to the authority, and leads in its relations with government, other public bodies, partner organisations and the media and is responsible for encouraging and promoting the prosperity of the District by developing local entrepreneurship, inward investment and community regeneration. This portfolio also has responsibility for Strategic Housing.

The Council is required to operate a 'strong leader' model and executive authority rests with the Leader of the Council. The Leader has presently delegated functions to members of the executive to the extent necessary to permit collective decision making by the executive.

##### **Main Areas of Responsibility**

- Leadership
- Policy Co-ordination and Development
- Partnership Development

- Communications
- Community Strategy
- Corporate Plan
- Strategic Budget Co-ordination
- Museums
- Economic Development
- Regeneration
- Special Projects
- Strategic Housing

### **Portfolio – Deputy Leader**

The Deputy Leader supports the Leader, including if for any reason the Leader is unable to act or the office of the Leader is vacant, acting in the Leader's place.

#### **Main Area of Responsibility**

- Political Management Processes

(Note: Under the current executive structure the Portfolio of the Deputy Leader is held in conjunction with another Portfolio.)

### **Portfolio 1 – Housing, Children's Services and Safeguarding, Youth and Community Safety**

The Portfolio Holder for Housing, Children's Services and Safeguarding, Youth and Community Safety is responsible for ensuring that the future housing needs of the District are met, and that current housing stock is of a decent standard. The Portfolio Holder is also responsible for overseeing the Council's relationship with tenants and private sector landlords. The Portfolio Holder is responsible for promoting a culture of pride and community spirit in the District, and for encouraging good standards of public behaviour, acting to ensure that enforcement action is taken against anti-social behaviour. This portfolio also has responsibility for encouraging, sporting and leisure activities, as well as acting as a champion for vulnerable, disadvantaged, disabled and elderly people within the District.

#### **Main Areas of Responsibility**

- Local Authority Housing
- Landlord and Tenants
- Crime Reduction
- Anti-Social Behaviour
- Children and Young People
- Community Safety and Engagement
- Voluntary Sector
- CCTV
- Events Management

### **Portfolio 2 – Access and Property Management**

The Portfolio Holder for Access and Property Management is responsible for monitoring the provision of transport services, managing the Council's assets and property, and for overseeing licensing for taxis, public entertainment and other areas

subject to legislation. The Portfolio Holder is also responsible for parking and highways (where the latter falls within the remit of the Council), and for ensuring that good quality services are accessible to all people within the District.

### **Main Areas of Responsibility**

- Transport
- Licensing Policy – all Acts
- Asset Management
- Parking
- Valuation
- Property Management
- Events Management – Landlord responsibilities and highways

### **Portfolio 3 – Environment, Waste and Planning**

The Portfolio Holder for Environment, Waste and Planning is responsible for seeking improvement to the natural and built environment of the District and for conserving its heritage. The Portfolio Holder is also responsible for ensuring that waste and pollution is minimised and that waste produced is recycled or reused as much as possible.

### **Main Areas of Responsibility**

- Natural and Built Environment
- Waste
- Corporate Enforcement – overarching
- Planning
- Coastal Protection
- Pollution disasters

### **Portfolio 4 – Corporate Resources and Performance**

The Portfolio Holder for Corporate Resources and Performance is responsible for ensuring the effective management and use of the Council's finances, revenue income, non-staff resources and other assets, as well as coordinating the delivery of the Capital Programme. The Portfolio Holder is also responsible for ensuring that the Council performs to a high standard in accordance with good governance and equality-related principles and that these areas are monitored effectively and ensuring that the Council maintains good relations with its staff, and for supporting the Council's culture of customer care in its delivery of services. The Portfolio Holder is also responsible for ensuring the effective use of information technology.

### **Main Areas of Responsibility**

- Finance
- Revenue
- Capital Programme and Prudential Borrowing Code
- Performance Management and Monitoring
- Corporate Governance
- Corporate Support Services – Audit, Legal and Democratic Services
- Equalities and Diversity
- Human Resources

- Relations with Trade Unions
- Customer Services and Revenues & Benefits
- ICT and E-Government

### **Portfolio 5 – Skills, Training, Tourism and Culture**

The Portfolio Holder for Skills, Training, Tourism and Culture has a wide-ranging brief related to the Council's partnership arrangements and relations with external bodies. The Portfolio Holder is also responsible for improving the accessibility and acquisition of skills and training by all age groups in the District.

#### **Main Areas of Responsibility**

- Tourism
- Arts and Culture
- External Relations
- Lifelong Learning
- Relations with Skills and Training-related bodies

### **Portfolio 6 – Health, Well-Being and Public Protection**

The Portfolio Holder for Public Health and Protection is responsible for safeguarding the health of the District, including the environmental health function of the Council. The Portfolio Holder is responsible for partnership working with a range of bodies involved in the provision of (or with an interest in) health services in Kent, and is charged with directing the Council's response to the public health directive of the Local Government and Public Involvement in Health Act 2007.

#### **Main Areas of Responsibility**

- Relations with Health-related bodies
- Leisure and Sport
- Air, Water and Land Quality
- Nuisance (noise, dust, etc)
- Accumulations
- Dog and Pest Control
- Food Safety
- Health and Safety
- Infectious Disease Control
- Port Health
- Smoke Free Enforcement
- Public conveniences

### **C. General Responsibilities Delegated to All Members of the Executive**

1. 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.
2. 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 (paragraph 4.21 of the Guidance); and
  - (ii) seek advice from relevant officers before taking any decision which may be 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 (paragraph 4.44 of the Guidance).
3. Any matter within a Cabinet Member's delegated powers may be referred by him or her to Cabinet for decision.
  4. To regularly review the effectiveness of policies and services for which the Portfolio Holder is responsible and make recommendations for continuous improvement to the Cabinet.
  5. To monitor and review capital and revenue budgets in areas of responsibility to ensure expenditure and income is consistent with the Council's agreed budget.
  6. 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.]
  7. To annually review fees and charges where these are relevant to the responsibility areas and recommend changes in line with the Council's agreed budget strategy.
  8. To make or agree recommendations to Cabinet in relation to new policy areas.
  9. 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.
  10. To authorise the making of applications for consent or permission under Town and Country Planning legislation for proposed development relating to the Member's portfolio area.
  11. To determine applications for use of the Council's logo relating to the Member's portfolio area.
  12. 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 (or in the absence of the Leader with the Deputy Leader or in the absence of both the Leader and the Deputy Leader with one other member of the Cabinet) and subject to the decision being reported to Cabinet as soon as practicable.
  13. To identify and encourage public participation and consultation ensuring effective communication of Council policies and strategies (as contained in the Corporate Plan and other plans) to all members of the Council, staff, residents of the District, partners and stakeholders.



14. To promote the core values of the Council as contained in the Corporate Plan.
15. To encourage external organisations to work in partnership with the Council.
16. To develop new policies consistent with the overall strategic approach of the Council.
17. To encourage an inclusive approach to the development of new or revised policies ensuring that other sections of the Council's structure and individual members are able to contribute.
18. To establish targets and monitor performance in relation to the Council's policies and strategies.
19. To speak on behalf of the Council.
20. To represent the Council on relevant external bodies to which they are appointed by the Council or the executive.
21. To request or commission research or other studies on matters of policy or service provision whether external or via other parts of the Council's political management structure.
22. To refer to the Cabinet any matters with corporate implications.
23. To prepare responses to consultation papers issued by the Government and other organisations in relation to those functions within the purview of the Cabinet.
24. To give guidance on budget priorities.
25. To develop proposals for the effective use of land and property in partnership with other stakeholders where appropriate.
26. To receive representations from Councillors acting in their capacity as ward members in relation to the provision of services to residents within their area.

**D. SPECIFIC POWERS DELEGATED TO MEMBERS OF THE EXECUTIVE**

1. The following table sets out those powers which are delegated to individual members of the executive. Column (1) sets out the member of the executive to whom the power(s) is delegated; Column (2) sets out the delegated power(s) and Column (3) sets out any Conditions or Limitations on the delegation.
2. By virtue of Section 9(E) of the Local Government Act 2000 the Leader may himself discharge any executive function. Listed here are the functions which the Leader has indicated he would as a matter of practice normally intend to exercise himself and those which he has delegated to other individual members of the Executive..

(1) Member of the Executive	(2) Delegated Power(s)	(3) Condition(s) or Limitation(s)
Leader of the Council	1. To make nominations and vote on behalf of the Executive in respect of the	None.

<b>(1) Member of the Executive</b>	<b>(2) Delegated Power(s)</b>	<b>(3) Condition(s) or Limitation(s)</b>
	<p>appointment of representatives to outside bodies by local authorities in Kent.</p> <p>2. Confirm Directions under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended).</p>	<p>Leader in consultation with the Portfolio Holder for Environment, Waste and Planning.</p>
[All Members of the Executive]	<p>1. To determine applications to the Council for revenue or capital grants.</p> <p>2. To authorise the acceptance of a tender for services or works (in cases where the original estimate was £50,000 or more).</p> <p>3. To invite additional Members of the Council and third parties to attend their respective Policy/Project Groups when considered appropriate.</p> <p>4. Exercising non-delegated executive powers where the Leader and Deputy Leader are, in the</p>	<p>(1) The grant shall relate to a function which falls within the member's portfolio.</p> <p>(2) The grant shall be made in accordance with the Budget and Policy Framework.</p> <p>(3) The amount of the grant shall not exceed £10,000.</p> <p>(1) The tender shall be the most economically advantageous option to the Council in accordance with any predetermined evaluation criteria.</p> <p>(2) An officer's written report shall set out details in accordance with Contract Procedure Rule 27.</p> <p>(3) There shall be no other issues for determination.</p> <p>NB The member shall not be authorised to make any contract either orally or in writing on behalf of the Council.</p> <p>None.</p> <p>If for any reason the Leader is unable to act or the office of the Leader is vacant and the Deputy Leader is unable to act or the office of the Deputy Leader is vacant, the executive may act in the Leader's place or</p>

<b>(1) Member of the Executive</b>	<b>(2) Delegated Power(s)</b>	<b>(3) Condition(s) or Limitation(s)</b>
	view of the Monitoring Officer, unable to act or the office is vacant.	may arrange for a member of the Cabinet to act in his place, subject to the Access to Information Rules.
Portfolio Holder for Housing, Children's Services and Safeguarding, Youth and Community	<ol style="list-style-type: none"> <li>1. To exercise the functions of the Council in relation to the Supporting People in Kent Commissioning Body.</li> <li>2. To grant consent for the letting of specific sites for circuses on Dover District Council land dependant upon the applications received in consultation with the Director of Environment and Corporate Assets.</li> </ol>	None.  None.
Portfolio Holder for Access and Property Management	<ol style="list-style-type: none"> <li>1. In consultation with the appropriate Parish or Town Council, to exercise the powers and duties of the Council under Sections 17 and 19 of the Public Health Act 1925 (street naming).</li> <li>2. To determine applications for consents in respect of local carnivals, braderies and tourism promotions, together with a suitable fee.</li> <li>3. To grant permission for voluntary/ charitable organisations to use free of charge car parks where a charge is made.</li> </ol>	None.  None.  (1) No cost shall accrue to the Council. (2) The general public shall not be inconvenienced.
Portfolio Holder for Environment, Waste and Planning	To sign the annual Kent Waste Partnership Service Plan.	None.
<a href="#">Portfolio Holder for Corporate Resources and Performance</a>	<a href="#">To consult with local stakeholders on the priorities to be adopted by the Executive in publishing initial proposals for the Medium Term Financial Strategy, budget and</a>	<a href="#">None</a>  RB11.

(1) Member of the Executive	(2) Delegated Power(s)	(3) Condition(s) or Limitation(s)
	<a href="#">policy framework.</a>	

2. An executive member must seek advice from relevant officers before taking a decision within his/her 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 any doubt about legality, powers, etc.
3. In the absence of the relevant Portfolio Holder, the function may be discharged by the Leader or, in the absence of the Leader, by the Deputy Leader.
4. Members of the executive retain the discretion to refer any matter to the Cabinet for determination where they feel it would be more appropriate.
5. In the event that a function falls within two or more portfolios, any of those Portfolio Holders may discharge the function in consultation with the other Portfolio Holder(s).

**E. Amendment of the Scheme of Delegation**

The Leader may amend the scheme of delegation relating to executive functions at any time.

**SECTION 4: GUIDELINES FOR EXECUTIVE COMMITTEES**

**1. Section 106 (Developer Contributions) Committee of the Executive**

To exercise the powers and functions of the Executive in relation to:

- (a) Monitoring the receipt of Section 106 monies, agreeing to their release and reviewing expenditure on approved schemes.
- (b) Ensuring the co-ordination of the expenditure of Section 106 monies with other Council expenditure, including schemes in the Capital Programme and programmed expenditures by other agencies as required.
- (c) Reviewing the Council's priorities for seeking developer contributions from time to time, and making recommendations on the operation of the Development Contributions Supplementary Planning Document to the Planning Committee and the Council.
- (d) Making recommendations to the Planning Committee in cases of competing requirements which exceed available developer contributions, including on the priorities which might be pursued in respect of contributions sought by other bodies.
- (e) Considering other related matters as required.

## 2. **Strategic Housing Committee of the Executive**

To exercise the powers and functions of the Executive in relation to:

- (a) Meeting with strategic stakeholders (eg RSLs, developers, construction trade, Homes and Communities Agency and KCC (Supporting People Team) to evaluate ongoing housing need, type and distribution.
- (b) Receiving and sharing information on the local housing market to establish a common understanding of the District's housing needs relating both to regeneration and the needs of local residents, whilst ensuring that the information research base is adequate.
- (c) Identifying priorities and targets for balancing the local housing market by housing type and distribution, to include both proposed new housing and the best use of existing housing.
- (d) Monitoring the delivery of targets set for balancing the housing market.
- (e) Making recommendations to the Council on strategic housing issues which fall within the remit of the Council.
- (f) Overseeing Strategic Housing Strategies that impact on local communities.
- (g) Considering other related matters as required

## 3. **Quorum**

The quorum for a meeting of a Committee of the Executive shall be 3.

## 4. **Substitutes**

Members of Executive Committees may appoint substitutes from amongst the Cabinet only. All other rules regarding substitutes apply in accordance with Council Procedure Rule 4.

## **SECTION 5: GUIDELINES FOR ADVISORY GROUPS**

### 1. **Appointment**

The Leader/Cabinet may appoint such cross-party Advisory Groups as it wishes in order to assist in the work of the executive for the following purposes:

- (a) Project Advisory Groups: To advise the Leader/Cabinet in respect of one (or more) specific project(s).
- (b) Reference Groups: To advise the Leader/Cabinet or a Portfolio Holder (eg where executive functions have been delegated to a Portfolio Holder) in respect of executive decisions which relate to a specific function or activity.

### 2. **Membership**

Unless otherwise agreed by the Leader/Cabinet, an Advisory Group shall:

- (a) comprise of 5 members including the Leader or appropriate Portfolio Holder who shall chair the Group;
- (b) as far as possible, the Group will be appointed in accordance with the rules on political balance;
- (c) particular regard shall be had to include a relevant ward member on the Group.

**3. Terms of Reference**

- (a) To provide a forum for consultation with other members of Council before particular issues are determined by the executive.
- (b) To advise the Leader or Cabinet/Portfolio Holder on any matter which concerns a project or relevant function/activity to be determined by the Leader/executive.
- (c) To assist and support the Leader or Cabinet/Portfolio Holder with regard to background information or preliminary work or research in connection with a project or function/activity to be determined by the Leader/executive.

**4. Quorum**

The quorum of a meeting of an Advisory Group shall be 3 members.

**5. Substitutes**

The substitutes rule (Council Procedure Rule 4) applies to Advisory Groups.

**6. Attendance at Meetings**

Any other member of the Council not duly appointed to the Advisory Group (as member or substitute) may attend and take part in the proceedings.

**SECTION 6: SCHEME OF OFFICER DELEGATIONS**

**A. General**

- 1. The Chief Officers referred to in this scheme of delegations are those set out in Article 12.01(b) of the Constitution.
- 2. Chief Officers or specified operational managers are hereby empowered to carry out those specific functions of the Council or the Leader/Executive delegated to them as set out in this scheme of delegations.
- 3. References herein to a specific statutory provision or Ministerial Circular shall include any statutory re-enactment or modification thereof for the time being in force.
- 4. Any decision taken under delegated powers shall be in accordance with any policies approved by the Council (the Policy Framework) and all of its Rules of Procedure. Further, where expenditure is involved, such action shall be conditional upon the necessary financial provision being included in the approved Budget.

5. Whenever an officer considers it appropriate, he or she shall seek the approval of the appropriate Committee, the Leader/executive or the executive member (as the case may be) notwithstanding the availability of a delegated power.
6. Any decision taken by an officer in exercise of a delegated power shall be reported to the appropriate Committee, the Leader/executive or executive member (as the case may be) for information at the request of any Member or may otherwise be published by the officer in the Members Bulletin for Information as he or she deems appropriate.
7. The action of an officer under a delegated power shall be deemed to be the act of the Council or the Leader/executive (as the case may be).
8. Chief Officers or specified Operational Managers to whom a duty, function or power is delegated may nominate another officer or officers to exercise that duty, function or power, provided that the nominated officer(s) reports to or is responsible to the Chief Officer or Operational Manager concerned. ~~may authorise appropriately experienced officers to exercise any powers or functions delegated to the Chief Officer or specified Heads of Service/Operational Manager concerned.~~
9. Nothing in these delegated powers shall restrict the powers or duties placed upon any officer by statute.
10. In relation to Council functions when matters of urgency and items not involving matters of policy require decisions between the meetings of a Council or Committee or Sub-Committee of the Council, the Chief Executive or appropriate Head of Service or Operational Manager shall be empowered, in consultation with the Chairman and Vice-Chairman of the Council or of the relevant Committee or Sub-Committee, or one other member in the absence of either (or two other members in the absence of both), to deal with such items. A report of the urgent matters dealt with shall be included in the Official Members Bulletin with Members being afforded the opportunity to raise questions in relation to decisions taken under this paragraph at the next following ordinary meeting of the Council or Committee or Sub-Committee of the Council.
11. In all cases of urgency any Chief Officer may:
  - (a) exercise any of the powers delegated herein to a Chief Officer or specified Head of Service or Operational Manager; and
  - (b) authorise any other officer of the Council whom he or she considers it appropriate to exercise such power.
12. The Scheme of Officer Delegations may be amended from time to time in any manner as is considered appropriate:
  - (1) In relation to Council functions:
    - (a) by the Council; or
    - (b) by the relevant committee or sub-committee insofar as it relates to functions discharged by that committee or sub-committee.

(2) In relation to executive functions by the Leader.

In the case of amendments made by a committee, sub-committee or the Leader, a report of the amendment will be made to the next ordinary meeting of the Council.

13. The exercise of the powers and functions delegated by the Scheme of Officer Delegations 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, in consultation with the Solicitor to the Council, proceedings in respect of any offence.
  - (vii) Execute work.
  - (viii) Sell or dispose of any goods, articles, samples materials or other property (other than land and buildings) unless specifically authorised within this Scheme of Officer Delegations.
  - (ix) Recover any sums of money due to the Council.
  - (x) Authorise any other person to do any of the things mentioned in (i) to (vii) above to the extent permitted by law.

14. 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.



15. 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
16. This Scheme of Officer Delegations has been approved in its totality by both the Council and by the Leader of the Council and no delegation contained within it shall be treated as invalid— by reason of it being incorrectly classified as a Council Function instead of an Executive function or vice versa.
17. The Council and/or the executive (as appropriate) have delegated the powers and functions set out in the following tables to the officers described. The powers and functions delegated are specified in Column 1 below and/or described in Column 2 below but their exercise is subject to the conditions/exclusions or limitations specified in Column 3.

**B. Delegation to: All Chief Officers**

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
1.	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Local Government Act 2000 (Section 13)	To act as an "authorised officer" in relation to any legislation under which the Chief Officer is authorised or empowered to act by the Council or a Committee, or under delegated powers.	
2.	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Local Government Act 2000 (Section 13)	To authorise any officer to act as an "authorised officer" to the extent that the Chief Officer is so authorised in accordance with the foregoing paragraph.	
3.	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Local Government Act 2000 (Section 13)	To authorise or appoint any officer to exercise any statutory power of entry in relation to any legislation under which the Council is authorised or empowered to act and to authorise any such officer to apply for a Justices Warrant for entry in any of the circumstances contemplated by the legislation concerned.	
4.	Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Local Government Act 2000 (Section 13)	To sign documents authenticating "Authorised Officers".	
5.	To authorise expenditure	(a) To authorise expenditure and to take such action as may be necessary and appropriate thereon in respect of sums provided in the estimates approved by the Council.  (b) To authorise contracts with a value not exceeding £200,000.	
6.	ICT procurement	To ensure that, prior to the procurement of any ICT (eg computer or communications hardware or software), adequate checks are carried out:  (a) To verify that the ICT is fit for the purpose intended.	

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Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		(b) To obtain confirmation from the Director of EK Shared Services as to the compatibility of ICT selected for purchase.  (c) To ensure that appropriate funding is available to cover the costs of ICT purchase.	
7.	Implementation of new and existing legislation	To arrange for the implementation of new and existing legislation, statutory instruments, orders and byelaws, except where a discretion is granted to the Council.	
8.	Use of premises	In consultation with the Property Services Division to let or authorise the use of premises under their control upon the terms and conditions approved by the Council.	
9.	Applications under the Town and Country Planning legislation	To make application for consent or permission under Town and Country Planning legislation in accordance with any proposals approved by the Council or the Cabinet or a relevant Portfolio Holder, or an officer under any delegated powers.	
10.	Appointment of staff	Within agreed procedures to appoint persons nominated by any contractor to the Council to any appropriate office of the Council other than as a direct employee of the Council.	
11.	Disposal of equipment	<del>Subject to the concurrence of the Director of Finance, Housing and Community, -I</del> to dispose of surplus, unserviceable or obsolescent plant, equipment, stock, stores or material.	<a href="#"><u>The prior approval of the Director of Finance, Housing and Community shall be sought in such circumstances as he may direct.</u></a>
12.	Issue appropriate licences, permits, certificates of registration and similar documents	The issue as appropriate of any licences, permits, certificates of registration and similar documents where the application conforms to statutory provisions and regulations and the requirements of the Council.	
13.	Disciplinary code of conduct	The implementation of the Council's disciplinary code of conduct.	
14.	Town and Country Planning Act 1990 (Section 225)	To take appropriate action under Section 225 of the Town and Country Planning Act 1990, including entry on to unoccupied land, to combat	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		flyposting	
15.	Enforcement action	<p>(a) Without prejudice to the specific provisions of these Delegations to Officers and subject to any policies approved by the Council, where any statutory provision empowers or requires the Council to issue make or serve (howsoever expressed) any notice, demand, requisition, direction, order or regulation, to discharge the functions of the Council in relation thereto and to issue, make or serve (as the case may be) any such notice, demand, requisition, direction, order or regulation, to authorise the carrying out of works in default, and, in consultation with the appropriate Chairman and Vice-Chairman or Portfolio Holder (as the case may be), to institute legal proceedings in connection therewith.</p> <p>(b) Subject to the relevant statutory provisions, in matters of urgency, to carry out works and to institute such proceedings without the prior service of any notice, demand or requisition.</p>	
16. [hr2]	<del>Local Government Act 1972 (Section 222) and Local Government (Miscellaneous Provisions) Act 1982 (Schedule 2, Paragraphs 1, 3, 4 and 12)</del>	<p><del>(a) To authorise, in consultation with the Solicitor to the Council, proceedings under Section 222 of the Local Government Act 1972 including injunction proceedings to prevent within the District of Dover any person or persons from committing or attempting to commit an offence or offences contrary to paragraphs 1, 3, 4 and 12 of Schedule 1 of the Local Government (Miscellaneous Provisions) Act 1982 and such other action as Counsel may advise.</del></p> <p><del>(b) To authorise, in consultation with the Solicitor to the Council, proceedings under Section 222 of the Local Government Act 1972 including injunction proceedings to prevent any person or persons from causing or permitting a public nuisance to arise or continue in respect of any organised gathering or gatherings in connection with or for the purposes of public or private entertainment within the District of Dover or such further action as Counsel may advise.</del></p>	
17.	Instruct the Solicitor to the	To instruct the Solicitor to the Council to act on behalf of the Council to	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	Council to act	the extent that they are authorised to act themselves.	
18.	Administer formal cautions	To administer formal cautions in appropriate cases, and, in consultation with the Solicitor to the Council, in respect of offences under legislation, or regulations made thereunder, for which the relevant Chief Officer is authorised to prosecute and similarly to authorise any inspector appointed by the Council or a relevant chief officer.	
19.	Safety of staff	To make arrangements for the safety of staff.	
20.	Council's representative in relation to contracts	To act as the Council's representative in relation to any Contracts authorised by the Council for the provision of goods or services or the execution of any works within the sphere of their responsibility and to appoint any suitably qualified or experienced officer to discharge the functions of the Supervising Officer/ Contract Administrator/ Architect/Quantity Surveyor/Engineer or Clerk of Works (as the case may be) in relation to any such Contract.	
21.	Press statements	In consultation with the PR Manager to issue or authorise the issue of statements, including press statements, on behalf of the Council in consultation with the Chairman or Vice-Chairman of the Council, the Leader of the Council or the relevant Portfolio Holder or the Chairman and Vice-Chairman of the appropriate Committee as appropriate.	
22.	Lettings or licences of sites and premises	In consultation with the Property <del>Services and Procurement Division</del> to effect lettings or licences of sites and premises on short term arrangements until required for the purpose for which they were acquired.	
23.	<del>Implementation of decisions</del>	<del>To authorise the implementation of decisions of all recognised negotiating bodies except where a discretion is granted to the Council</del> [hr3].	
24.	Ex gratia payments	To grant ex gratia payments not exceeding £ <del>400</del> 500 for damage to personal property of employees occurring whilst on duty.	
25.	<u>Institution or</u> Defence of any civil or criminal proceedings	To authorise, in consultation with the Solicitor to the Council, the institution or defence of any civil or criminal proceedings or of proceedings under any enactment, statutory instrument, order or byelaw on behalf of the Council.	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
26.	<del>Regulation and Investigatory Powers Act 2000</del>	<del>To authorise (in consultation with the Corporate Support Manager and the Monitoring Officer) a request for covert surveillance made pursuant to the Regulation of Investigatory Powers Act 2000 and in accordance with the Council's Covert Surveillance Policy and Procedures.</del>	
27.	<del>Freedom of Information Act 2000 (Sections 2 and 8)</del>	<del>Where a request for information has been made to the Council in accordance with Section 8 of the Freedom of Information Act 2000:  (a) decide whether an exemption under Part II of the Act applies to the request (save that in cases where the public interest test in Section 2 of the Act applies to the exemption under consideration the decision as to whether or not the public interest test has been satisfied shall be taken in consultation with the Solicitor to the Council); and  (b) respond to the request accordingly.</del>	
<del>28-27.</del>	Licensing Act 2003 and Gambling Act 2005	To make application to the licensing authority under the Licensing Act 2003 and the Gambling Act 2003 for premises licences in respect of any premises to be used by or under authority of the Council and to make application to vary the terms of any such licence or to surrender the same.	
<del>29-28.</del>	Licensing Act 2003	To authorise any officer of the Council holding a personal licence as the designated premises supervisor in relation to any licence held or to be held by the Council under the Licensing Act 2003.	
<del>30-29.</del>	Licensing Act 2003 and Gambling Act 2005	To discharge the functions of a "responsible authority" within the meaning of the Licensing Act 2003 and the Gambling Act 2005 in so far as those functions relate to any functions of the Council which fall within the broad range of responsibilities of the Chief Officer concerned.	
<del>31-30.</del>	Licensing Act 2003 and Gambling Act 2005	To exercise on behalf of the Council the rights of the Council as an "interested party" within the meaning of the Licensing Act 2003 and the Gambling Act 2005 in so far as the Council falls to be considered as such.	
32.	<del>Civic and Corporate Gifts</del>	<del>The Local Authority accepts, holds and administers gifts of property.</del>	Where such gift results in ongoing revenue

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
			implications the decision to accept the gift must be taken in consultation with the Section 151 Officer.
<del>33.31.</del>	Responses to any consultations by Kent County Council	To make responses to any consultation by Kent County Council irrespective of the nature or number of third party representations	This may be excrcised irrespective of the nature or number of third party representations
<del>34.32.</del>	Placing of services of officers at the disposal of other authorities	To authorise any Chief Officers or specified Operational Managers, to whom powers are delegated under the Scheme of Officer Delegations, to authorise appropriately experienced officers, whose services are placed at the disposal of the Council pursuant to section 113 of the Local Government Act 1972, to exercise any powers or functions delegated to the Chief Officer or specified Heads of Service/Operational Manager concerned.	
<del>35.33.</del>	<del>Abandoned, Lost and Uncollected Goods and Property</del>	To exercise the powers of the Council <u>to dispose of goods and property</u> under (i) section 41 of the Local Government (Miscellaneous provisions) Act 1982 in relation to lost and uncollected property. (ii) <u>The Torts (Interference with Goods) Act 1977</u> (iii) <u>any other power or contractual right</u>	

### C. Council and Executive Functions

Delegation to: Chief Executive

Council Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>34.</del>	Appointment of staff below	As Head of Paid Service to determine the establishment and make	<del>(a) The Chief Executive</del>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	Chief Officer level	changes to the establishment below the level of Chief Officer.
		<p><del>shall develop a standard briefing report outlining the reasons for the changes, the cost implications, the consultation undertaken and the timing of the new post or dismissal.</del></p> <p><del>(b) This report will be used to indicate the likely decision of the Chief Executive, which will then be sent to all members of the General Purposes Committee and to the Chairman of the Scrutiny (Policy and Performance) Committee for information and to the Unions for the purpose of consultation.</del></p> <p><del>(c) Upon conclusion of the consultation the Chief Executive shall</del></p>



Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<p><del>consider the views of the consultees ahead of taking the decision.</del></p> <p><del>(d) Once the decision has been taken the Chief Executive will ensure that the course of action is notified to all members of the General Purposes Committee.</del></p> <p><del>(e) Where there is a pension implication or an issue of discretionary compensation a report will then be placed before the General Purposes Committee for determination of the issues.</del></p> <p><del>(f) An annual summary of all new posts and terminations will be developed for consideration by the General Purposes</del></p>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<p>Committee and will be supplied to the Chairman of the Scrutiny (Policy and Performance) Committee.</p> <p>(g) When the budget is developed the salary and staffing budget will be clearly identified for approval, changes which increase this budget will be placed before Council for consideration as the implication will be an increase in base budget or the virement of monies from elsewhere.</p> <p>(h) Details of the establishment and changes within it will continue to form part of the quarterly Management Information Report to all Members.</p>
<u>2:35.</u>	Appointment and dismissal of	Within the approved establishment to appoint and dismiss all staff below
		All appointments and

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
staff below Chief Officer level	the level of Chief Officer and to determine the terms and conditions upon which they are appointed and continue to be employed.	<p><del>dismissals shall be subject to Compliance with Prescribed Standing Orders.</del></p> <p>All appointments shall be made substantially in accordance with the Council's Standard Terms and Conditions of Employment and agreed policies and procedures. Any minor variations shall only be made in the interests of the effective and efficient discharge of the Council's functions; <del>shall be agreed with the Head of East Kent Human Resources Partnership and recorded on a schedule which shall be reported to the General Purposes Committee not less than every six months.</del></p>
<p><del>3.36.</del> <u>S112 Local Government Act 1972</u></p>	To discharge the Council's powers and duties as employer of all employees	The Chief Executive shall act substantially in accordance with the Council's Standard Terms and Conditions of Employment and agreed

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
			policies and procedures. Any minor variations shall only be made in the interests of the effective and efficient discharge of the Council's functions. <del>shall be agreed with the Head of East Kent Human Resources Partnership and recorded on a schedule which shall be reported to the General Purposes Committee not less than every six months.</del>
4.37.	Complaints procedure and policy	<p>To determine complaints made against the Council in accordance with the Council's Complaints Procedure and Policy on Remedies from time to time, and</p> <p>(i) To grant compensatory payments not exceeding £1,000 in respect of loss or damage suffered as a result of maladministration.</p> <p>(ii) To take such action as he deems appropriate from time to time to publicise the Council's Complaints Procedure, <del>including the production of an advisory Complaints Booklet.</del></p> <p>(iii) To arrange the provision of such training, and to produce such guidance materials, for Members and staff as he deems appropriate.</p>	
5.38.	Section 113 of the Local Government Act 1972	As Head of Paid Service, to exercise or nominate another officer to exercise, the powers and functions of the Council to effect any changes necessary to the contract of employment of any officer so as to enable his services to be placed at the disposal of another local authority under the	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes	
<del>6.39.</del>	Dover and Shepway Partnership Project	<p>provisions of section 113 of the Local Government Act 1972.</p> <p><del>(a) Exercise the Council's powers and functions under section 2 of the Local Government Act 2000 where to do so is calculated to facilitate, or is conducive or incidental to the achievement of the objectives of the Partnership Project.</del></p> <p><del>(b) Exercise the Council's powers and functions under section 111 of the Local Government Act 1972 where to do so is calculated to facilitate, or is conducive or incidental to the achievement of the objectives of the Partnership Project.</del></p>	
<del>7.40.</del>	<del>Section 270 Local Government Act 1972 and any legislation relating to public health, public safety, food safety or health and safety</del> Various	To appoint any person as "Proper Officer" for any specified statutory purposes or for any specified purposes.	<u>The Chief Executive shall be satisfied that any person whom he proposes to appoint as a proper officer has the necessary skills and experience to enable him to discharge the functions of the proper officer appointment.</u>
41.	<u>Legal Proceedings ( Local Government Act 1972 (Section 222); Localism Act 2011; all other enabling powers)</u>	<u>In consultation with the Solicitor to the Council, to institute, defend or appear/participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Executive in consultation with the Solicitor to the Council considers that such action is necessary to protect the Council's interests.</u>   [RB6]	

Executive Functions

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Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
42. <a href="#">Legal Proceedings ( Local Government Act 1972: Localism Act 2011; all other enabling powers)</a>	<a href="#">In consultation with the Solicitor to the Council, to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Executive in consultation with the Solicitor to the Council considers that such action is necessary to protect the Council's interests.</a>   <a href="#">[RB7]</a>	
8-43. <a href="#">Companies Act 2006 (Section 323)</a>	To discharge the powers and functions of the Council in its capacity as a member or shareholder of any company of which the Council is a member or shareholder and <del>the Gateway Marine Parade (Dover) Limited and to act as the Council's representative at any meeting of the company pursuant to Section 323 of the Companies Act 2006.</del>	
9-44.	<del>To discharge the powers and functions of the Council in its capacity as a member of the East Kent Spatial Development Company and to act as the Council's representative at any meeting of the company pursuant to Section 323 of the Companies Act 2006</del> <a href="#">[hr8]</a> .	
40-45. Anti-Social Behaviour Act 2003 (Sections 30(2) and 31(2))	To grant consent pursuant to Section 31(2) of the Anti-Social Behaviour Act 2003 to the "relevant officer" of Police making an authorisation under Section 30(2) of the Act (power to disperse groups etc) in consultation with the Portfolio Holder for Community, Housing and Youth or the Leader of the Council and the Ward Councillor(s).	
11-46. Urgent Executive Business	To deal with urgent items of business falling within the remit of the Executive where the Leader, <a href="#">and Deputy Leader</a> <del>and Executive Members</del> are not in office.	
12-47. Acquisition of key regeneration sites	To authorise acquisitions relating to key regeneration sites in consultation with the Leader, the Director of Finance, Housing and Community, the Director of Governance and the Solicitor to the Council.	The Chief Executive shall have been provided with the relevant completed pro forma in respect of the site

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
13.48.	Local Government Act 1972 (Section 138)	To exercise the powers of the Council under Section 138 of the Local Government Act 1972 in respect of emergencies or disasters.	
14.49.	Civil Contingencies Act 2004	To discharge the duties of the Council under the Civil Contingencies Act 2004.	
15.50.	<u>Local Government Act 1972 (Section 113) - Placing of services of officers at the disposal of other authorities</u>	<p><del>(1) Exercise the powers and functions of the Council under S113 of the Local Government Act 1972 to enter into an agreement with another local authority:</del></p> <p><del>(a) for the placing at the disposal of that authority for the purposes of its functions, the services of officers employed by the Council;</del></p> <p><del>(b) <del>(b)</del> for the placing at the disposal of the Council for the purposes of its functions, the services of officers employed by that authority.</del></p> <p><u>(2) As Head of Paid Service, to exercise, or nominate another officer to exercise, the powers and functions of the Council to effect any changes necessary to the contract of employment of any officer so as to enable his services to be placed at the disposal of another local authority under the provisions of section 113 of the Local Government Act 1972.</u></p>	
16.51.	<u>Local Authorities (Goods and Services) Act 1970</u> <del>Dover and Shepway Partnership Project</del>	<p><del>(a) Exercise the powers and functions of the Council under the Local Authorities (Goods and Services) Act 1970 in order to facilitate the achievement of the Dover and Shepway Partnership Project.</del></p> <p><del>(b) Exercise the Council's powers and functions under section 2 of the Local Government Act 2000 where to do so is calculated to facilitate, or is conducive or incidental to the achievement of the objectives of the Partnership Project.</del></p> <p><del>(c) Exercise the Council's powers and functions under section 111 of the Local Government Act 1972 where to do so is calculated to facilitate, or is conducive or incidental to the achievement of the objectives of the Partnership Project.</del></p>	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<a href="#">52.</a>	<a href="#">Management of Claims Against the Council (Land Charges)</a>	<a href="#">To authorise the Chief Executive to take all appropriate steps in the management of claims against the Council arising out of the land charges functions including approving the terms of any compromise or settlement.</a>	
17.53.	Section 113 of the Local Government Act 1972	As Head of Paid Service, to exercise, or nominate another officer to exercise, the powers and functions of the Council to effect any changes necessary to the contract of employment of any officer so as to enable his services to be placed at the disposal of another local authority under the provisions of section 113 of the Local Government Act 1972.	
18.54.	Local Government Act 1972 (Section 270(3))	Power to appoint persons as the "Proper Officer" for specific statutory purposes	The Chief Executive shall be satisfied that any person whom he proposes to appoint as a proper officer has the necessary skills and experience to enable him to discharge the functions of the proper officer appointment.
<a href="#">55.</a>	<a href="#">Part VI, Chapter II, Town and Country Planning Act 1990</a>	<a href="#">To exercise the powers and functions of the Council in relation to Blight Notices.</a>	<a href="#">None</a> <a href="#">RB9</a>

**Delegation to:** Chief Executive  
[or in that person's absence, the Section 151 Officer]

Executive Functions

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
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49.56.	Covert Surveillance Policy	To act as the authorising officer for all covert surveillance operations, conducted in accordance with the Council's Covert Surveillance Policy and Procedures.	In accordance with the Council's Covert Surveillance Policy and Procedures.
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**Delegation to: Head of Regeneration and Development**

Council Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
	49.57. Goods Vehicles (Licensing of Operators) Act 1995	To make objections and representations on behalf of the planning authority to the grant of applications for operators licences	
	20.58. Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 <sup>[RB10]</sup>	Power to determine application for planning permission.	Referral to Planning Committee will be made where there are more than 5 contrary representations to the proposal  Or, at the written request of a Member identifying planning reasons
	24.59. Section 73 of the Town and Country Planning Act 1990	Power to determine applications to develop land without compliance with conditions previously attached.	
	22.60. Section 73A of the Town and Country Planning Act 1990	Power to grant planning permission for development already carried out.	
	23.61. Section 70A of the Town and Country Planning Act 1990	Power to decline to determine application for planning permission.	
	24.62. Sections 69, 76 and 92 of the	Duties relating to the making of determinations of planning applications.	

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Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder		
<a href="#">25-63.</a> Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)	Power to determine application for planning permission made by a local authority, alone or jointly with another person.	
<a href="#">26-64.</a> Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418)	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	
<a href="#">27-65.</a> Section 106 of the Town and Country Planning Act 1990	Power to enter into agreement regulating development or use of land.	
<a href="#">28-66.</a> Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.	Power to issue a certificate of existing or proposed lawful use or development.	
<a href="#">29-67.</a> Section 94(2) of the Town and Country Planning Act 1990	Power to serve a completion notice.	
<a href="#">30-68.</a> Section 220 of the Town and	Power to grant consent for the display of Advertisements.	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (S.I. 1992/666)		
<a href="#">31.69.</a> Section 196A of the Town and Country Planning Act 1990	Power to authorise entry onto land.	
<a href="#">32.70.</a> Section 102 of the Town and Country Planning Act 1990	Power to require the discontinuance of a use of land.	
<a href="#">33.71.</a> Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990	Power to serve a planning contravention notice, breach of condition notice or stop notice.	
<a href="#">34.72.</a> Section 171E of the Town and Country Planning Act 1990	Power to issue a temporary stop notice.	
<a href="#">35.73.</a> Section 172 of the Town and Country Planning Act 1990	Power to issue an enforcement notice	
<a href="#">36.74.</a> Section 187B of the Town and Country Planning Act 1990	Power to apply for an injunction restraining a breach of planning control.	
<a href="#">37.75.</a> Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990	Power to determine applications for hazardous substances consent, and related powers.	
<a href="#">38.76.</a> Paragraph 2(6)(a) of Schedule 2 to the Planning and	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites,	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
Compensation Act 1991 (c. 34), paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act	or mineral permissions relating to mining sites, as the case may be, are to be subject.	
<a href="#">39-77.</a> Section 215(1) of the Town and Country Planning Act 1990	Power to require proper maintenance of land.	
<a href="#">40-78.</a> Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	Power to determine application for listed building consent, and related powers.	
<a href="#">44-79.</a> Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c.9), as applied by section 74(3) of that Act	Power to determine applications for conservation area consent.	
<a href="#">42-80.</a> Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) and paragraphs 8, 15 and 26 of	Duties relating to applications for listed building consent and conservation area consent.	

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	Department of the Environment, Transport and the Regions Circular 01/01	
<a href="#">43.81.</a>	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990	
<a href="#">44.82.</a>	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990	
<a href="#">45.83.</a>	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990	
<a href="#">46.84.</a>	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990	
<a href="#">47.85.</a>	Section 247 of the Town and Country Planning Act 1990	
<a href="#">48.86.</a>	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990	
<a href="#">49.87.</a>	The Town and Country Planning (Environmental Impact Assessment) Regulations 2011	

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<a href="#">50-88.</a>	Town and Country Planning Act 1990 (section 198)	To determine all matters relating to Tree Preservation Orders	
<a href="#">54-89.</a>	Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012	To implement the provisions of the Regulations.	
<a href="#">52-90.</a>	Anti-Social Behaviour Act 2003 (Part 8)	To undertake all functions in respect of the processing of complaints about high hedges.	
<a href="#">53-91.</a>	Planning Performance Agreements	To negotiate and enter into Planning Performance Agreements	
<a href="#">54-92.</a>	Localism Act 2011 (Part 6)	To deal with all planning and enforcement matters in relation to Part 6 of the Act	

#### Executive Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<a href="#">55-93.</a>	<a href="#">The Planning and Compulsory Purchase Act 2004 – Part 3 and Town and Country Planning Act 1990<sup>[RB11]</sup></a>	<a href="#">To exercise the powers and functions of the Council in relation to Neighbourhood Development Plans.</a>	<a href="#">The function of designating neighbourhood areas shall be referred to the executive for decision in</a>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<p><a href="#">circumstances where there are objections.</a></p> <p><a href="#">The consideration of the recommendation made by the examiner required by paragraph 12 of Schedule 4B to the Town and Country Planning Act 1990 shall be referred to the executive for decision.</a></p> <p><a href="#">The functions of deciding to make a neighbourhood development plan under section 38A(4) of the Planning and Compulsory Purchase Act 2004 or refusing to make a plan under section 38A(6) of that Act shall be referred to the executive for decision</a></p>

**Delegation to: Director of Governance**

Council Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
20.94.	Freedom of Information Act 2000	To maintain, update and amend the Records Retention Scheme and Publication Scheme in respect of the Freedom of Information Act 2000 <sup>[hr12]</sup> .	
95.	<a href="#">Freedom of Information Act 2000 (Sections 2 and 8)</a>	<p><a href="#">Where a request for information has been made to the Council in accordance with Section 8 of the Freedom of Information Act 2000:</a></p> <p><a href="#">(a) decide whether an exemption under Part II of the Act applies to the request (save that in cases where the public interest test in Section 2 of the Act applies to the exemption under consideration the decision as to whether or not the public interest test has been satisfied shall be taken in consultation with the Solicitor to the Council); and</a></p> <p><a href="#">(b) respond to the request accordingly.</a></p>	

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Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
21.96.	Post Entry training	To grant financial assistance for post entry training in accordance with any scheme approved by the Council.	
22.	Removal expenses and lodging allowances	To grant removal expenses and lodging allowances in accordance with any scheme approved by the Council.	
23.97.	Freedom of Information Act 2000	To maintain, update and amend the Council's Records Retention Schedule and Publication Scheme as required.	
24.98.	Insurance matters	To deal with all Council insurance matters.	
25.99.	Equalities	Authority to deliver the Council's equalities programme, and community development matters.	



Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
100.	<a href="#">Section 92 of the Localism Act 2011 (Assets of Community Value)</a>	<a href="#">Review of decision to include land in list</a>	

**Delegation to: Solicitor to the Council**

Council Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>26.101</del>	Defence of any civil or criminal proceedings	To take all necessary action (including the laying of an information) for the institution or defence of any civil or criminal proceedings or of proceedings under any enactment, statutory instrument, order or byelaw on behalf of the Council.	
<del>27.102</del>	Local Government (Miscellaneous Provisions) Act 1976 (Section 16), Town and Country Planning Act 1990 (Section 330) and Road Traffic Regulation Act 1984 (Section 112)	To serve Requisitions for Information and any other enabling statutory provision.	
<del>28.103</del>	Town and Country Planning Act 1990 (Section 172)	To issue enforcement notices to specify the date upon which they are to become effective and to determine the appropriate period or periods for compliance with such notices.	
<del>29.104</del>	Enforcement Notices	To issue Enforcement Notices under the instruction of the <del>Director of Regeneration and Development or Head of Development Management</del> Head of Regeneration and Development.	
<del>30.105</del>	Temporary Stop Notices	To issue a Temporary Stop Notice.	
<del>31.106</del>	Licensing Act 2003 <u>and</u> <u>Gambling Act 2005</u>	To act as Solicitor to the Council as Licensing Authority <u>under the Licensing Act 2003</u> [hr13].	

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<del>32.107</del>	Licensing Act 2003 and Gambling Act 2005	To take all necessary action (including the laying of an information) for the institution or defence of any civil or criminal proceedings arising out of or in connection with the functions of the Council as Licensing Authority.	
<del>33.108</del>	Licensing Act 2003 <u>and</u> Gambling Act 2005	To authorise appropriately experienced officers to exercise any powers or functions delegated to him under <u>30 and 31</u> <del>40</del> above.	

### Executive Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<del>34.109</del>	Housing Benefit or Council Tax Benefit fraud	To lay information in respect of offences involving housing benefit or council tax benefit fraud.	In conjunction with East Kent Services
<del>35.110</del>	Institution or defence of any civil or criminal proceedings	To take all necessary action (including the laying of an information) for the institution or defence of any civil or criminal proceedings or of proceedings under any enactment, statutory instrument, order or byelaw on behalf of the Council.	
<del>36.111</del>	Serve notices or demands leases, licences, tenancies and mortgages	To serve notices or demands in relation to leases, licences, tenancies and mortgages for breach of covenant or condition and to recover possession and any monies owing to the Council.	
<del>37.112</del>	Recover money	To institute, in consultation with the Director of Finance, Housing and Community or the Director of EK Shared Services proceedings to recover money owing to the Council.	
<del>38.113</del>	Notices to Treat and Notice of Entry	To serve Notices to Treat and Notices of Entry.	
<del>39.114</del>	Local Government (Miscellaneous Provisions) Act 1976 (Section 16), Town and Country Planning Act 1990 (Section 330) and Road Traffic Regulation Act 1984 (Section	To serve Requisitions for Information and any other enabling statutory provision.	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	112)		
40.115	Proceedings for the possession of a property	To institute proceedings for the possession of a property in mortgage to the Council where the mortgage repayments are three months or more in arrears and such arrears amount to not less than £100.	
44.116	National Assistance Act 1948	To make application to a Court of summary jurisdiction under the provisions of the National Assistance Act 1948, as amended, on receipt of a certificate from the Proper Officer, for the removal to suitable premises of persons in need of care and attention and to make application to extend or vary any Order made under Section 47 of that Act.	
42.117	Criminal Justice and Public Order Act 1994 (Sections 77-79)	To discharge the Council's powers and functions in respect of travellers encampments.	
43.118	Possession Orders	To authorise the enforcement of any order for the possession of premises made in favour of the Council.	

**Delegation to: Head of Democratic Services**

Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
44.11	<u>The Local Land Charges Acts</u>	To exercise the functions of the Council in respect of the Local Land Charges Service.	
45.	<u>Civic Gifts</u> <sup>[hr14]</sup>	<del>To accept, hold and administer civic gifts of property.</del>	<del>Where such gifts result in ongoing revenue implications, the decision to accept the gift to be taken in consultation with the Section 151 Officer.</del>

Delegation to: Director of Governance

Head of Regulatory Services

Council Function

120.	<a href="#">Local Government (Miscellaneous Provisions) Act 1976 (Part II, Section 61) and <del>Town Police Clauses Act 1847 (Sections 37 to 68)</del></a>	<a href="#">Emergency Revocation of any licence</a> <a href="#">Revocation of a Hackney Carriage or Private Hire Driver's Licence</a>	<a href="#">No officer shall authorise the immediate revocation of a Hackney Carriage or Private Hire Driver's Licence otherwise than in consultation with the Solicitor to the Council</a>
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**Delegation to:**      **Head of Regulatory Services**  
                                  **Environmental Protection Manager**  
                                  **Public Protection Manager**

Council Functions

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
82.121	European Communities Act 1972  (a) All Regulations, Orders and subordinate legislation made under or having effect by virtue of the Act from time to time and relating to public Health  (b) any modification or re-enactment of the foregoing	Various measures for the optimisation of public health	
83.122	The Game Act 1831 –	Licensing of dealers in game and the killing and selling of game	

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Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<p>Sections 5, 6, 17, 18 and 21 to 23</p> <p>Game Licences Act 1860 – Sections 2 to 16</p> <p>The Customs and Inland Revenue Act 1883 – Section 4</p> <p>The Local Government Act 1874 – Sections 12(3) and 27</p> <p>The Local Government Act 1972 – Section 213</p>		
<p><a href="#">84.123</a> The Noise and Statutory Nuisance Act 1993 - Schedules 2 and 3</p>	Powers relating to loudspeakers and alarms.	
<p><a href="#">85.124</a> Poisons Act 1972 - Sections 3(1)(b)(ii), 5, 6 and 11</p>	List of persons entitled to sell non-medical poisons	
<p><a href="#">86.125</a> The Town and Country Planning Act 1990 – Sections 215 to 219</p>	Land adversely affecting amenity of neighbourhood.	
<p><a href="#">126.</a> <a href="#">The Town and Country Planning Act 1990 – Sections 224, 225 and 225A</a></p>	<a href="#">Enforcement of control over advertisements</a>	
<p><a href="#">87.127</a> The Health and Safety at Work etc Act 1974 - Section 19</p>	Power to appoint and to terminate the appointments of inspectors, to specify and vary the powers which any such inspector is entitled to exercise	

Executive Functions

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
<u>88-128</u>	The Anti-Social Behaviour Act 2003  Sections 41 & 42 Section 43 Sections 48 & 49	Closure of noisy premises To authorise officers to issue penalty notices for graffiti and fly-posting Graffiti removal and recovery of expense	
<u>129.</u>	<u>The Animal Welfare Act 2006</u>	<u>Animal welfare</u>	
<u>89-130</u>	The Building Act 1984  Section 59 Section 60 Section 65 Section 67 Section 79 Section 84 Section 85 Section 98 Section 104 Section 108	Drainage of buildings. Use and ventilation of soil pipes. Provision of sanitary conveniences in workplace. Loan of temporary sanitary conveniences. Ruinous and dilapidated buildings and neglected sites. Paving and drainage and yards and passages. Maintenance of entrances to courtyards. Power to require occupier to permit work. Local authority to give effect to appeal. Payment by instalments.	
<u>90-131</u>	Byelaws made by the Council in so far as they relate to dogs		
<u>91-132</u>	Clean Air Act 1993		Excluding Part III (provisions relating to smoke Control Areas)
<u>92-133</u>	Clean Neighbourhoods and Environment Act 2005  Part 2 Part 3 Part 4 Part 5	Vehicles Litter and Refuse Graffiti and other defacement Waste	

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
	Part 6	Dogs	Excluding section 55 (power to make dog control orders)
	Part 7	Noise	Excluding section 69 (Designation of alarm notification areas)
	<del>93-134</del> The Control of Dogs Order 1992		
	<del>94-135</del> The Control of Pollution Act 1974 Part III Part V	Provisions relating to noise Supplementary Provisions	Excluding sections 63 to 67 inclusive
	<del>95-136</del> The Control of Pollution (Amendment) Act 1989 Section 5 Section 6 Section 7	Duty to produce authority to transport controlled waste Seizure and disposal of vehicles used for illegal waste disposal Further enforcement provisions	
	<del>96-137</del> The County of Kent Act 1981		
	<del>97-138</del> The Dangerous Dogs Act 1991		
	<del>139.</del> <a href="#">The Dogs Act 1871</a>	<a href="#">Protection against dogs</a>	
	<del>98-140</del> The Dogs (Fouling of Land Act) 1996 Section 3 Section 4	Prosecution of Offences Provisions relating to fixed penalty notices	
	<del>99-141</del> The Dover Port Health Authority Order 1978	To exercise the powers and functions of the council in its capacity as Port Health Authority [within the meaning of the Public Health (Control of	

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
		Disease) Act 1984] whether arising or having effect under The Food Safety Act 1990 The European Communities Act 1972 The Agriculture Act 1990 Any other enactment Any Order, Rule, Regulation or other instrument whatsoever authorised or having effect under any of the above Whether made before or after the date of this delegation	
400.14	The Environment Act 1995  Section 108  Section 109	Powers of enforcing authorities and persons authorised by them  Power to deal with cause of imminent danger of serious pollution	
401.14	The Environmental Information Regulations 2004		



<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
<p><a href="#">402.14</a> Environmental Protection Act 1990</p> <p>Part I Part II Part IIA</p> <p>Part III</p> <p>Part IV</p> <p>Part VIII</p>	<p>Integrated Pollution Control and Air Pollution Control by local authorities</p> <p>Waste on Land Contaminated Land</p> <p>Statutory Nuisances</p> <p>Litter etc</p> <p>Miscellaneous – Other controls on substances, articles or waste</p>	<p>(Amended by Noise and Statutory Nuisance Act 1993)</p> <p>The Director of Environment and Corporate Assets is appointed as the officer with responsibility discharging the functions imposed or conferred by section 149 for dealing with stray dogs</p>
<p><a href="#">145.</a> <a href="#">Environmental Permitting Regulations 2008</a></p>	<p><a href="#">Powers relating to environmental permitting regulations.</a></p>	
<p><a href="#">403.14</a> European Communities Act 1972</p> <p>(a) All Regulations, Orders and subordinate legislation made under or having effect by virtue of the Act from time to time and relating to public Health</p>	<p>Various measures for the optimisation of public health</p>	

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
	(b) any modification or re-enactment of the foregoing		
<a href="#">104.14</a>	The Food and Environment Protection Act 1985		
<a href="#">105.14</a>	The Food (Chilli, Chilli Products Curcuma & Palm Oil) (Emergency Control) (England) Regulations 2005		
<a href="#">149.</a>	<a href="#">The Food Safety and Hygiene (England) Regulations 2013</a>		
<a href="#">106.15</a>	The Food (Jelly Confectionary) (Emergency Control) (England) Regulations 2002		
<a href="#">107.15</a>	The Food Safety Act 1990  Part II Part III	Main Provisions Administration & Enforcement	
<a href="#">108.15</a>	The Food Safety Act (Amendment) Regulations 2004		
<a href="#">109.15</a>	The General Food Regulations 2004		
<a href="#">110.15</a>	The Health Act 2006, Part 1, Chapter 1 – All Regulations, Orders and subordinate legislation made under or having effect by virtue of the Act from time to time relating to smoking	Smoke-free premises, places and vehicles.	

<u>Column 1</u> <u>Legislation</u>	<u>Column 2</u> <u>Brief Description</u>	<u>Column 3</u> <u>Conditions/ Exclusions</u> <u>Limitations/Notes</u>
<a href="#">411.15</a> The Local Government Miscellaneous Provisions Act 1976  Section 16 Sections 21 and 22 Section 33 Section 35	Power to obtain particulars of persons interested in land. Sanitary conveniences. Restoration or continuation of supply of water, gas or electricity. Removal of obstructions from private sewers	
<a href="#">412.15</a> The Local Government (Miscellaneous Provisions) Act 1982 – Sections 29 to 32	Protection of buildings.	
<a href="#">157.</a> <a href="#">Localism Act 2011 – Section 1</a>	<a href="#">To implement and operate the Food Hygiene Rating Scheme</a>	
<a href="#">413.15</a> The National Assistance Act 1948 – Section 47  Section 48	Removal to suitable premises of persons in need of care.  Duty of Councils to provide temporary protection for property of persons admitted to hospitals, etc.	
<a href="#">414.15</a> The Noise Act 1996	Noise at Night	
<a href="#">415.16</a> The Offices, Shops and Railway Premises Act 1963		
<a href="#">416.16</a> The Official Feed and Food Controls (England) Regulations 2009		
<a href="#">417.16</a> The Organic Products (Imports from Third Countries) Regulations 2003		
<a href="#">418.16</a> Pollution Prevention and Control Act 1999		
<a href="#">419.16</a> Pollution Prevention and Control (England and Wales) Regulations 2000		
<a href="#">420.16</a> The Prevention of Damage by		

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
	Pests Act 1949		
<a href="#">166.</a>	<a href="#">Private Water Supplies Regulations 1994 2009</a>		
<a href="#">421-16</a>	Public Health Act 1936, Part II  Section 45 Section 50 Section 78 Section 79 Sections 83 and 84 Section 140 Part XII	Sanitation and buildings  Defective sanitary conveniences. Leaking cesspools. Accumulations in yard, etc. Removal of noxious matter. Filthy and verminous premises, articles, etc. Polluted water supply. General works in default, powers of entry, prosecutions, etc.	
<a href="#">422-16</a>	The Public Health Act 1961  Section 17 Section 34 Sections 35 and 36	Drainage Accumulations of rubbish Filthy and verminous premises, articles, etc	
<a href="#">423-16</a>	The Public Health (Control of Diseases Act) Act 1984  Part I Part II Part III Part V Part VI	Port Health Control of disease Disposal of dead bodies Miscellaneous General	
<a href="#">424-17</a>	The Public Health (Ships) Regulations 1979	Public health control of ships	
<a href="#">425-17</a>	The Refuse Disposal Amenity Act 1978	Provisions relating to other refuse	

	<u><a href="#">Column 1 Legislation</a></u>	<u><a href="#">Column 2 Brief Description</a></u>	<u><a href="#">Column 3 Conditions/ Exclusions Limitations/Notes</a></u>
<del>426.17</del>	The Rice Products (Restriction on First Placing on the Market) (England) Regulations 2008		
<del>427.17</del>	The Specified Products from China (Restriction on First Placing on Market) (England) Regulations 2008		
<del>174.</del>	<u><a href="#">Trade in Animals and Related Products Regulations 2011</a></u>		
<del>428.17</del>	The Water Industry Act 1991 – Sections 77 to 85	Local authority functions with regard to water supplies	

**Delegation to:      Environmental Protection Manager**

Executive Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<del>429.17</del>	The Licensing Act 2003 - Parts 3 & 4	Functions of local authority whose functions are exercisable in relation to minimising or preventing the risk of pollution of the environment or of harm to human health	To exercise the powers under the Act of a "responsible authority" within the meaning of sections 13(4)(e) and 69(4)(e) of the Act
<del>177.</del>	<u><a href="#">The Licensing Act 2003 - Parts 3 &amp; 4</a></u>	<u><a href="#">Functions of enforcing authority for the purposes of the Health &amp; Safety at Work etc Act 1974</a></u>	<u><a href="#">To exercise the powers under the Act of a</a></u>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<a href="#">"responsible authority" within the meaning of sections 13(4)(c) and 69(4)(c) of the Act</a>

**Delegation to:**      **Head of Regulatory Services**  
**Public Protection Manager**  
**Licensing Team Leader**

Council Functions

<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/Exclusions Limitations/Notes</u>
<a href="#">178.</a> <a href="#">Licensing Act 2003 (as amended) and any Regulations and Orders made or having effect thereunder</a>	<a href="#">To exercise all functions of the Council as Licensing Authority.</a>	<a href="#">Those which are either reserved to or conferred upon either the full Council or the Licensing Committee (or a Sub-Committee thereof) either by law, or by virtue of this or any other scheme of officer delegations made by the Licensing Committee from time to time [Licensing Committee<sup>RB15</sup>]</a>
<a href="#">430-17</a> Licensing Act 2003 (Sections 18, 31, 35, 39, 44, 72, 85, 120)	By way of example (and not by way of limitation) the delegations effected by the above paragraph include power to discharge the following	[Licensing Committee]

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<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/-Exclusions Limitations/Notes</u>
and 121)	<p>functions:</p> <ul style="list-style-type: none"> <li>(a) The functions under Section 18 relating to determining applications for premises licences where there are no relevant representations.</li> <li>(b) The functions under Section 31 relating to determining applications for provisional statements where there are no relevant representations.</li> <li>(c) The functions under Section 35 relating to determining applications for variations to premises licences where there are no relevant representations.</li> <li>(d) The functions under Section 39 relating to determining applications to vary the designated premises supervisor where there is no police objection.</li> <li>(e) The functions under Section 44 relating to determining applications for the transfer of a premises licence where there is no police objection.</li> <li>(f) The functions under Section 72 relating to determining applications for club premises certificates where there are no relevant representations.</li> <li>(g) The functions under Section 85 relating to determining applications to vary club premises certificates where there are no relevant representation.</li> <li>(h) The functions under Section 120 relating to determining applications for personal licences where there is neither a police objection and the applicant does not have unspent convictions.</li> <li>(i) The functions under Section 121 relating to determining applications for the renewal of personal licences where there is neither a police</li> </ul>	

<u>Column 1 Legislation</u>		<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/-Exclusions Limitations/Notes</u>
		objection and the applicant does not have unspent convictions.  (j) To determine whether any complaint, representation etc is irrelevant, frivolous, vexatious or is a repetition etc.  (k) To discharge the administrative and managerial functions of the Licensing Authority under the Act and, in particular, to issue, sign or authenticate any notice, order, determination or document required or authorised to be given under the Act or any Regulations and Orders made or having effect thereunder.	
<a href="#">131-18</a>	Authorise experienced officers to exercise functions	To authorise appropriately experienced officers to exercise any powers or functions delegated to them.	[Licensing Committee]
<a href="#">132-18</a>	Licensing Act 2003	No officer shall authorise or bring or defend any legal proceedings (including criminal proceedings for the breach of any requirement arising under the Licensing Act 2003 or any Regulations or Orders made or having effect thereunder) otherwise than in consultation with the Solicitor to the Council.	[Licensing Committee]
<a href="#">182.</a>	<a href="#">Gambling Act 2005 and any Regulations and Orders made or having effect thereunder</a>	<a href="#">To exercise all functions of the Council as Licensing Authority under the Gambling Act 2005 and any regulations and orders made or having effect thereunder.</a>	<a href="#">Except those which are either reserved to or conferred upon either the full Council, the Licensing Committee (or a Sub-Committee thereof) or, another specified officer, either by law, or by virtue of this or any other scheme of delegations made by the Licensing Committee from time to time</a> <sup>[RB16]</sup> .
<a href="#">183.</a>	<a href="#">Local Government (Miscellaneous Provisions) Act</a>	<a href="#">To exercise the powers and functions of the Council in relation to street trading. To issue, renew or revoke street trading consents, including the</a>	<a href="#">[Council]</a>



	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/-Exclusions Limitations/Notes</u>
	<u>1982 (Schedule 4)</u>	<u>institution of legal proceedings.</u>	
<u>184.</u>	<u>Street and House to House Collections-The House to House Collections Act 1939</u>	<u>To exercise the powers and functions of the Council in relation to house-to-house collections.authorise street and house-to-house collections..</u>	<u>[Council]</u>
<u>185.</u>	<u>Licenses— Pleasure Boats, Pleasure Vessels and Boatmen-The Public Health Acts Amendment Act 1907 (Section 94)</u>	To issue licences in respect of pleasure boats and pleasure vessels and boatmen.	[Council]
<u>186.</u>	<u>Local Government (Miscellaneous Provisions) Act 1976 (Part II) and Town Police Clauses Act 1847 (Sections 37 to 68)</u>	<u>To exercise the powers and duties in respect of the licensing of Hackney Carriages and their drivers and Private Hire Vehicles, drivers and their operators.</u>	<u>[Council]</u>  <u>Excluding the grant or renewal of any licence in circumstances which are contrary to the Council's policy guidance</u>  <u>Excluding the making of policy, regulations and by-laws</u>  <u>Excluding the refusal of any licence</u>  <u>Excluding the revocation of any licence except in circumstances at No. 120</u>
<u>187.</u>	<u>Hackney Carriage and Private Hire Vehicle Driver's Licences</u>	<u>To approve applications for Hackney Carriage and Private Hire Vehicle Drivers' Licences where the applicant either:</u>  <u>(a) has no current convictions; or</u>	<u>[Council]</u>

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/-Exclusions Limitations/Notes</u>
		<u>(b) has convictions which would not, under normal circumstances, raise doubts as to the applicant's fitness to hold a licence having regard to the Council's policy guidelines relating to fit and proper persons.</u>	
188.	<u>Vehicle Licences</u>	<u>To approve applications for Hackney Carriage and Private Hire Vehicle Licences.</u>	<u>[Council]</u>
189.	<u>Private Hire Vehicle Operator Licences</u>	<u>To approve applications for Private Hire Vehicle Operator Licences where the applicant:</u>  <u>(a) has no current convictions; or</u>  <u>(b) has convictions which would not, under normal circumstances, raise doubts as to the applicant's fitness to hold a licence having regard to the Council's policy guidelines relating to fit and proper persons.</u>	<u>[Council]</u>
190.	<u>Local Government (Miscellaneous Provisions) Act 1976 (Section 58) (Return of Identification Plate or Disc)</u>	<u>To exercise the powers and duties of the Council.</u>	<u>[Council]</u>
191.	<u>Local Government (Miscellaneous Provisions) Act 1976 (Section 79)</u>	<u>To act as Authorised Officer in respect of the specified licences (Authentication of Licences).</u>	<u>[Council]</u>
192.	<u>Local Government (Miscellaneous Provisions) Act 1976 (Sections 60, 61 and 62)</u>	<u>To suspend Hackney Carriage and Private Hire Vehicle and Drivers' Licences and Private Hire Operator Licences.</u>	<u>[Council]</u>
193.	<u>Local Government (Miscellaneous Provisions) Act 1976 (Section 68) (fitness of licensed vehicles)</u>	<u>To act as an Authorised Officer.</u>	<u>[Council]</u>
194.	<u>Local Government (Miscellaneous Provisions) Act 1976 (Part II) and Town Police Clauses Act 1847 (Sections 37 to 68)</u>	<u>To institute proceedings against any person contravening legislative provisions and any Byelaws made thereunder.</u>	<u>[Council]</u>

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/-Exclusions Limitations/Notes</u>
195.	<u>Advertising on hackney carriage and private hire vehicles</u>	<u>To approve applications for advertising on the front doors of hackney carriage and private hire vehicles.</u>	<u>[Council]</u>
196.	<u>Refunds of surrendered Private Hire Vehicle and Private Hire Operator Licences</u>	<u>To grant refunds in respect of surrendered Private Hire Vehicle and Private Hire Operator Licences.</u>	<u>[Council]</u>
197.	<u>Local Government (Miscellaneous Provisions) Act 1982 To licence or register persons or premises(Part VIII)</u>	<u>To register persons and premises in respect of the business of tattooing, ear-piercing, electrolysis and hairdresser or barber and the practice of acupuncture. To exercise the powers and duties in respect of acupuncture, tattooing, piercing and electrolysis, etc.</u>	<u>[Council]</u>
198.	<u>Local Government (Miscellaneous Provisions) Act 1982 (Schedule 3)</u>	<u>To exercise the Council's powers and duties in relation to the control of sex establishments</u>	
199.	<u>Animal Boarding Establishment Act 1963</u>	<u>To exercise the powers and duties in respect of Animal Boarding Establishments</u>	
200.	<u>Pet Animals Act 1951 (as amended)</u>	<u>To exercise the powers and duties in respect of pets shops.</u>	
201.	<u>Riding Establishments Acts 1964 &amp; 1970</u>	<u>To exercise the powers and duties in respect of riding establishments.</u>	
202.	<u>Zoo Licensing Act 1981</u>	<u>To exercise the powers and duties in respect of zoos.</u>	
203.	<u>Performing Animals (Regulation) Act 1925</u>	<u>To exercise the powers and duties in respect of performing animals.</u>	
204.	<u>Breeding and Sale of Dogs Act 1999 Breeding of Dogs Act 1973 &amp; 1991</u>	<u>To exercise the powers and duties in respect of the breeding and sale of dogs.</u>	
205.	<u>Hypnotism Act 1952</u>	<u>To exercise the powers and duties in respect of hypnotism.</u>	

<u>Column 1 Legislation</u>		<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/Exclusions Limitations/Notes</u>
<u>206.</u>	<u>Dangerous Wild Animals Act 1976</u>	<u>To exercise the powers and duties in respect of the sale of dangerous wild animals.</u>	
<u>6</u> <u>Executive Functions</u>			
<u>Column 1 Legislation</u>		<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
<u>207.</u>	Sunday Trading Act 1994	To administer the provisions of the Sunday Trading Act 1994 including the receipt of notices in respect of large shops and shops occupied by persons observing the Jewish Sabbath and to maintain the statutory registers in respect thereof.  <u>To enforce the provisions of the Sunday Trading Act 1994 (including the institution of legal proceedings in respect of any offence under the Act) and to appoint inspectors for the purpose thereof [RB17].</u>	
<del>36-208</del>	Sunday Trading Act 1994 (Schedule 3)	To determine all applications for consent and exercise all powers under Schedule 3 of the Sunday Trading Act 1994.	
<del>37-209</del>	Criminal Justice and Police Act 2001  Section 19 Section 20 Section 21 Section 22 Section 23 Section 24 Section 25 Section 26 Section 27	Closure of unlicensed premises  Closure notices Applications for closure orders Closure orders Termination of closure orders by constable or local authority Discharge of closure orders by the court Appeals Enforcement of closure orders Offences by corporate body Service of notices	
<u>210.</u>	<u>Criminal Justice &amp; Police Act 1991</u>	<u>To exercise the power and duties in respect of closure of unlicensed premises.</u>	

	<u>Column 1 Legislation</u>	<u>Column 2 Brief Description</u>	<u>Column 3 Conditions/ Exclusions Limitations/Notes</u>
211.	<a href="#">Scrap Metal Dealers Act 2013</a>	<a href="#">To exercise the powers and duties in respect of scrap metal dealers</a> <small>[RB18]</small> .	
212.	<a href="#">Health Act 2006</a>	<a href="#">To exercise powers and duties in respect of smoke free premises places and vehicles</a>	

**Delegation to:** Section 151 Officer

Executive Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
46-213	Financial Regulations	To deal with matters specified by Financial Regulations.	
47-214	Raising of Income	To be responsible for the administration of the Council's financial affairs including ensuring proper arrangements for the administration and accounting of council tax, business rates, housing rents and services charges and the accounting and raising of any other statutory charges, and charges for services, licences, fees, fines and any other income due.  "Proper arrangements" shall include, but not be limited to: <ul style="list-style-type: none"> <li>• the appropriate or statutory accounting arrangements</li> <li>• authorisation of statutory returns</li> <li>• authorisation of write-off of irrecoverable debts</li> </ul>	Limitations: The issue of demands and recovery action in respect of council tax, <del>and</del> business rates <u>and sundry debts</u> is the responsibility of EK Services.  The collection of housing rents and service charges <u>and rechargeable works</u> is the responsibility of EK Housing.
48-215	Investment, borrowing and banking	To manage the investment of the Council's funds and the borrowing of such sums as the Council has approved, including, but not limited to:	

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		(a) Determining the most appropriate instruments and counterparties to use (b) the period and terms of the investment and borrowing, including any variations to the agreed period and terms (c) the banking arrangements of the council, including the appointment of bankers and the terms and conditions of any bank accounts (d) To declare every six months, where appropriate, a local average rate of interest in respect of Housing Act Advances.	
49.216	Financing of capital and major revenue project expenditure	To take decisions to apply capital receipts, revenue resources, grants, Section 106 monies, Community Infrastructure Levy, leases and other council funds to finance the approved capital and major revenue project assets and programmes.	
50.217	Revenue Budget	To approve: (a) Virements between revenue budgets (b) revenue budget carry forwards (c) the application of funds held in reserves to fund revenue expenditure.	In consultation with the Leader of the Council or the Portfolio Holder with responsibility for finance <a href="#">where appropriate</a> .
51.218	Reserves	To authorise transfers between the reserves and balances of the councils accounts.	In consultation with the Portfolio Holder with responsibility for finance
52.219	Benefits	To ensure the proper administration of all benefits which are the responsibility of the council, including, but not limited to: (a) Authorisation of statutory subsidy calculations and returns. (b) write off irrecoverable overpayments of any benefit.	Limitations: The calculation and payment of benefits and discretionary housing payments are undertaken by EK Services.
53.220	Taxation Responsibilities	To authorise statutory returns and to manage the taxation of the council in compliance with legislation and in its interest, including opting to tax supplies of land and buildings for the purposes of VAT.	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>54.221</del>	Residential Property	<del>(e)</del> To authorise the provision of grants and loans for house purchase and improvement in accordance with any scheme approved by the Council and to grant any approval or consent in respect of properties held in mortgage by the Council.	
<del>55.222</del>	Leasehold Service Charges	To determine the levels of service charges payable by lessees under leases of dwellings in respect of which the Council is the lesser.	
<del>56.223</del>	Officer car leasing scheme	To administer and manage the Council's officer car leasing scheme.	
<del>57.224</del>	Local Government (Contracts) Act 1997	In consultation with the Solicitor to the Council to determine when a certificate should be issued.	Note: Only used in complex commercial transactions.
<del>58.225</del>	Acceptance of Gifts of Property	To accept or reject, gifts of property. (S139 LGA1972)	

**Delegation to:**      **Director of Finance, Housing and Community  
Head of Strategic Housing**

Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>59.226</del>	Fix values of Council houses	To fix values of Council houses to be sold.	<u>On the basis of appropriate professional valuation advice..</u>
<del>60.</del>	<del>Events</del>	<del>To co-ordinate the management of events taking place within the District both on and off Council land</del> <sup>[RB19]</sup> .	
<del>61.227</del>	Housing Act 1996, <u>Part VII</u>	<u>To exercise the powers and functions of the Council in relation to</u>	<u>The approval for</u>

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	<del>and the as amended by the Homelessness Act 2002 (Part VII)</del>	<del>homelessness and threatened homelessness To determine the status of an applicant for accommodation.</del>	<a href="#">consultation of a draft Homelessness Strategy and the adoption and modification of the Homelessness Strategy.</a>
62.228	Housing Corporation Grants submitted by Housing Associations	To administer applications for Housing Corporation Grants submitted by Housing Associations to the Council in respect of schemes approved by the Council or a Committee.	
63.229	Fix rents and service charges etc	To fix reasonable rents, service charges and other charges for the tenancy and occupation of Council dwellings and garages in accordance with the Council's policy and the provisions of Social Rent Reform.	
151.23	<del>Right to buy</del> <a href="#">Housing Act 1985 Part V – Right to Buy</a>	To determine the circumstances in which the Right to Buy does and does not arise in accordance with the current legislation.	
231.	<a href="#">Housing Act 1985 Part V Section 156A</a>	<a href="#">To exercise the powers and functions of the Council in relation to the right of first refusal for the landlord</a>	
65.232	Housing (Service Charge Loans) Regulations 1992	To exercise the powers and duties of the Council under the Housing (Service Charge Loans) Regulations 1992 in accordance with such schemes as may from time to time be approved by the Council.	
66.233	Private sector leasing scheme	To discharge any functions of the Council under any private sector leasing scheme.	

**Delegation to:**      **Director of Finance, Housing and Community**  
**Head of Strategic Housing**  
**Private Sector Housing Manager**

Council Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
67.234	The Town and Country	Land adversely affecting amenity of neighbourhood	



Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
Planning Act 1990 – Section 215 to 219		
68.235 Caravan Sites and Control of Development Act 1960 (Part 1)	To exercise the powers and functions of the Council relating to the licensing of caravan sites including the powers of entry under section 26 and, in consultation with the Solicitor to the Council, to institute proceedings in respect of any offence under the Act	[Council]
69.236 Caravan Sites and Control of Development Act 1960 (Breaches of Site Licence) and Local Government (Miscellaneous Provisions) Act 1976	To institute, in consultation with the Solicitor to the Council, legal proceedings in respect of any offence under the legislation, or Regulations.	[Council]
237. <a href="#">Local Government (Miscellaneous Provisions) Act 1976 and Caravan Sites and Control of Development Act 1960 (Part 1.)</a>	<a href="#">To delegate powers for the service of Statutory Notices.</a>	<a href="#">[Council RB20]</a>
238. <a href="#">Caravan Sites and Control of Development Act 1960 (Part 1)</a>	<a href="#">To issue site licences.</a>	<a href="#">[Council RB21]</a>

Executive Functions

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	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
	<del>70-239</del> The Housing Grant, Construction and Regeneration Act 1996  Part I Part IV	Grants and other assistance for housing purposes Deferred Action Notices etc	
	<del>71-240</del> The Building Act 1984  Section 59 Section 60 Section 64 Section 66 Section 67 Section 72 Section 76 Section 79 Section 84 Section 85 Section 98 Section 104 Section 108	Drainage of buildings Use and ventilation of soil pipes Provision of closets in building Replacement of earth-closets etc Loan of temporary sanitary conveniences Means of escape from fire Defective premises Ruinous and dilapidated buildings and neglected sites. Paving and drainage of yards and passages Maintenance of entrances to courtyards Power to require occupier to permit work. Local authority to give effect to appeal Payment by instalments	
	<del>72-241</del> The Housing Act 1985  Part VI Part VI Part X Part XI		Excluding Sections 289 to 302 inclusive and sections 304 to 306 inclusive
	<del>73-242</del> The Housing Act 2004  Part 1	Housing Conditions	The provisions of Part 1

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	Chapter 1 Chapter 2 Chapter 3 Chapter 5	Enforcement of housing standards: general Improvement notices, prohibition orders and hazard awareness notices Emergency measures General and miscellaneous provisions relating to enforcement action	Chapter 4 relating to demolition orders and slum clearance declarations have not been delegated  Including Schedule 3
74.243	The Local Government and Housing Act 1989 - Section 98	Power of entry in connection with Renewal Areas	
75.244	The Local Government Miscellaneous Provisions Act 1976  Section 16 Sections 21 & 22 Section 33	Power to obtain particulars of persons interested in land Sanitary conveniences Restoration or continuation of supply of water gas or electricity	
76.245	The Local Government (Miscellaneous Provisions) Act 1982 – Sections 29 to 32	Protection of Buildings	
77.246	The National Assistance Act 1948  Section 47 Section 48	Removal to suitable premises of persons in need of care Duty of councils to provide temporary protection for property of persons admitted to hospitals etc	
78.247	The Prevention of Damage by Pests Act 1949		

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
	<del>79.248</del> The Public Health Act 1961 – Sections 35 and 36	Filthy and verminous premises, articles, etc	
	<del>80.249</del> Public Health Act 1936  Part II Section 45 Sections 83 & 84	Sanitation and Buildings Defective sanitary conveniences Filthy and verminous premises, articles etc	(amended by section 35 Public Health Act 1961)
	<del>81.250</del> The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002	Power to improve living conditions	
	<del>82.251</del> Environmental Protection Act 1990, Sections 79 and 80	Any premises in such a state as to be prejudicial to health or a nuisance	Excluding Section 79(1)(b)-(h)
	<del>83.252</del> Recovery of repair costs by sale of property	(a) To charge property with the costs of repair works undertaken by the Council pursuant to its statutory powers.  (b) To authorise the sale by the Council of any such property pursuant to powers contained in the Law of Property Act 1925 in order to recovery any sums due to the Council and secured by such a charge.	Power of <a href="#">of sale</a> only to be exercised where the property in question is unoccupied
	<del>84.253</del> The Housing Act 2004  Part 2  Part 3  Part 4	Licensing of houses in multiple occupation  Selective licensing of other residential accommodation  Additional control provisions in relation to residential accommodation	Excluding sections 55 to 60 relating designation of additional licensing areas  Excluding sections 80 to 84 relating to the designation of selective

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
	Part 7	Supplementary and final provisions	licensing areas

**Delegation to:** Director of Finance, Housing and Community  
Head of Communication and Engagement

Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
254.	<u>Events</u>	<u>To co-ordinate the management of events taking place within the District both on and off Council <a href="#">land</a><sup>[RB22]</sup>.</u>	
255.	<u>Sir Ernest Bruce Charles Charity</u>	<u>To keep under review the proper administration of the Sir Ernest Bruce Charles Charity and to make periodic reports to the Cabinet recommending the use and distribution of the charitable fund.</u>	<u>All matters requiring a decision of the Council as trustee to be taken by Cabinet.</u>

**Delegation to:** Head of Leadership Support  
Head of Communication and Engagement

Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
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Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>85.256</del>	Communication, Consultation and Marketing	<del>Authority to deal with the</del> <u>To manage the</u> Council's corporate communication, <del>consultation</del> and marketing activity.	
<del>86.</del>	<del>Website</del>	<del>To exercise responsibility for the Council's website.</del>	

**Delegation to:** Director of Environment and Corporate Assets

Executive Functions

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>87.</del>	<del>Waiving of fees for the hire of rooms at the Council Offices</del>	<del>To determine applications for the reduction or waiving of fees for the hire of rooms at the Council Offices, Whitfield for voluntary and charitable organisations.</del>	
<del>88.</del>	<del>Acquire or dispose of property</del>	<del>To acquire or dispose of property in those instances where the proposed acquisition or disposal is in accordance with terms previously agreed by the Executive [RB23].</del>	
<del>89.</del>	<del>Hire charges for all buildings</del>	<del>To adjust admission and hire charges for all buildings administered by the Council in accordance with Council policy.</del>	
257.	<u>Asset Management</u>	<p>To manage and maintain the Council's property assets including:</p> <p>(a) <u>Rating</u></p> <p>(i) <u>To lodge objections to and proposals for rating assessments, agree revised values, sign agreements and appear in the Valuation Court.</u></p> <p>(b) <u>Taxation</u></p> <p>(c) <u>Making applications for and accepting grants</u></p> <p>(d) <u>Grant and Termination of Leases, Licences and Concessions</u></p> <p>(i) <u>To settle the terms and authorise the grant of leases, licences concessions and similar agreements affecting land and premises.</u></p> <p>(ii) <u>to review all rents or other consideration in connection</u></p>	<p><u>Property maintenance to be undertaken in accordance with the provisions of the Council's Corporate Property Strategy and Asset Management Plan.</u></p> <p><u>Excludes the insuring of the asset which is the responsibility of the Director of Governance</u></p>

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<p>therewith;</p> <p>(iii) <u>to consent to any assignment or underletting or other variation of such lease, licence, concession or agreement; and</u></p> <p>(iv) <u>to authorise and take all action necessary to determine such a lease, licence, concession or agreement.</u></p> <p>(e) Valuation</p> <p>(i) <u>To fix the value of property under Section 1257 of the Housing Act (Sale price Right to Buy).</u></p> <p>(ii) <u>To exercise the powers and functions of the Council in relation to the consideration of disposal under Section 158 of the Housing Act 1985 (Consideration on Right to Buy buy back)</u></p> <p>(f) Management of Facilities</p> <p>(i) <u>To make arrangements for the hire of land, buildings, recreation facilities and all other assets owned or managed by the Council including determining the terms of conditions of use and admission and hire charges</u></p>	<p><u>Excluding demolition of buildings which except in cases of urgency must be subject to prior Cabinet approval.</u></p> <p><u>Excluding any functions which are delegated to East Kent Housing.</u></p> <p><u>Excluding where the rent or other consideration exceeds £50,000 per annum;</u></p>
90.	Valuation Court	To lodge objections to and proposals for rating assessments, agree revised values, sign agreements and appear in the Valuation Court.	
91.	Insurance values of property	To revise periodically insurance values of property.	
258.	<u>Acquisition and Disposal of Freehold or Leasehold Property</u>	<u>To acquire or dispose of freehold or leasehold property and to agree terms and conditions in connection therewith.</u>	<p><u>All acquisitions or disposals to be in accordance with any relevant Cabinet decision (if applicable).</u></p> <p><u>Excluding where the value of the acquisition</u></p>

	Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
			<u>or disposal exceeds £200,000 which must be subject to prior Cabinet approval.</u>
92.	Negotiate terms and conditions for the acquisition or disposal of freehold or leasehold property	<del>To negotiate terms and conditions for the acquisition or disposal of freehold or leasehold property in accordance with the policy and/or instructions of the Council and to acquire or dispose of property in those instances where the proposed acquisition or disposal is in accordance with terms previously agreed by the Executive or where the value of the land/property does not exceed £30,000.</del>	
259.	<u>Acquisition of key regeneration sites</u>	<u>To authorise acquisitions relating to key regeneration sites, in the absence of the Chief Executive, in consultation with the Leader of the Council, the Director of Finance, Housing and Community, the Director of Governance and the Solicitor to the Council.</u>	The Director of Environment and Corporate Assets shall have been provided with the relevant completed pro forma in respect of the site
93.260	Markets	<del>To control, manage and let stalls in Markets controlled by the Council.</del> <u>exercise the powers and functions of the Council in relation to markets controlled by the Council.</u>	
94.261	<u>Local Government Act 1972 - Carrying out of minor and non-controversial works restrictive covenants</u>	<del>To determine applications and to (i) to grant approvals to the carrying out of minor and non-controversial works where consent is required from the Council to comply with any covenant or restriction affecting property owned or formerly owned by the Council (or its predecessor) otherwise than under the Housing Revenue Account.</del> <u>(ii) To release the benefit of restrictive covenants or other restrictions where the benefit is held by the Council</u>	
95.262	Demolition	<del>To arrange for demolition in the implementation of approved schemes.</del>	
96.263	<u>Public Health Act 1925 - Public conveniences and bus shelters</u>	To exercise the powers and functions of the Council in relation to the provision and maintenance of public conveniences, and bus shelters.	<u>Excluding permanent closure which must be subject to prior Cabinet approval.</u>



	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
	<u>264.</u> <u>Highways Act - Bus Shelters</u>	<u>To exercise the powers and functions of the Council in relation to the provision and maintenance of bus shelters.</u>	
	<del>97.265</del> <b>Beach and foreshore</b>	<del>To deal with</del> <u>exercise the powers and functions of the Council in relation to all matters concerning the beach and foreshore, including coast protection, pollution of the coastline, beach chalets, the letting of moorings, scull boxes, boat pitches and winter boat storage sites.</u>	
	<u>266.</u> <u>Coast Protection Act 1949</u>	<u>To exercise the powers and functions of the Council in relation to all matters concerning the provision and maintenance of coastal defences</u>	
	<u>267.</u> <u>Flood and Water Management Act 2010</u>	<u>To exercise the powers and functions of the Council in relation to all matters concerning the management of risk in connection with flooding and coastal erosion.</u>	
	<u>268.</u> <u>Land Drainage Act 1991</u>	<u>To exercise the powers and functions of the Council in relation to all matters concerning land drainage.</u>	
	<del>98.269</del> <u>Fix the value of property</u>	<u>To fix the value of property for Housing Act purposes.</u>	
	<u>99.</u> <u>Grant and Termination of Leases</u>	(a) <del>To settle the terms and authorise the grant of leases, licences and similar agreements affecting land and premises within the terms of Council policy where the rent or other consideration does not exceed £30,000 per annum;</del>  (b) <del>to review all rents or other consideration in connection therewith;</del>  (c) <del>to consent to any assignment or underletting or other variation of such lease, licence or agreement; and</del>  (d) <del>to authorise and take all action necessary to determine such a lease, licence or agreement.</del>	
	<u>100.</u> <u>Acquisition/Disposal of freehold property</u>	(a) <del>To negotiate terms and conditions for the acquisition or disposal of freehold or leasehold property in accordance with the policy and/or instructions of the Council and to acquire or dispose of property in those instances where the proposed acquisition or disposal is in accordance with terms previously agreed by the Executive;</del>	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<del>(b) to authorise the acquisition or disposal of freehold property up to a consideration of £30,000.</del>	
401-271	<u>Recycling and Waste Collection</u> <del>Refuse collection, street cleansing and cesspool emptying</del>	To exercise the powers and functions of the Council in relation to <u>recycling</u> <del>refuse waste collection, recycling, street cleansing and cesspool emptying.</del>	
271.	<u>East Kent Waste Contract</u>	<u>To discharge the executive functions of Kent County Council and Shepway District Council relating to the management of the East Kent Waste Contract as detailed in paragraph 8.2 of the joint report of the Director of Landlord Services (Shepway District Council) and the Director of Property, Leisure and Waste Management (Dover District Council) to Cabinet on 13 October 2010.</u>	<u>Subject to the conditions and limitations set out in the three-way inter authority agreement between Dover District Council, Kent County Council and Shepway District Council.</u>
272.	<u>Abandoned Vehicles – The Refuse Disposal Amenity Act 1978, Road Traffic Regulation Act 1984; The Removal and Disposal of Vehicles Regulations 1986</u>	<u>To exercise the powers and functions of the Council in relation to the removal and disposal of vehicles..</u>	
102.	<del>Dispose of boats and ancillary equipment</del>	<del>To dispose of boats and ancillary equipment abandoned or uncollected on any part of the foreshore in the Council's ownership.</del>	
403-271	<u>Cemeteries, closed churchyards and war memorials</u>	To maintain cemeteries, closed churchyards and war memorials for which the Council is responsible.	
274.	<u>The Local Government Act 1972, the Public Health Act 1936 and the Local Authorities Cemeteries Order 1977</u>	<u>To exercise the powers and functions of the Council in relation to the grant of rights of burial, rights to erect memorials and the maintenance of graves</u>	<u>Only those provisions relating to the matters specified in Column 2 are delegated</u>
104.	<u>Deal Pier</u>	<del>To exercise the powers and functions of the Council in relation to Deal Pier</del> Pier [RB24]	

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<del>105.27</del>	<del>Parks and open spaces – various including Public Health Act 1875 and Open Spaces Act 1906</del>	<del>To let parks and open spaces for sporting and recreational activities including fairs, exhibitions and displays. To exercise the powers and duties of the Council in relation to parks and open spaces.</del>	
<del>106.</del>	<del>Recreation prices</del>	<del>To adjust recreation prices.</del>	
<del>107.</del>	<del>Public halls</del>	<del>To let and administer public halls.</del>	
<del>108.27</del>	<del>White Cliffs Countryside Partnership</del>	<del>To manage exercise the powers and functions of the Council in relation to the White Cliffs Countryside Partnership.</del>	
<del>109.27</del>	<del>Sport, Leisure and recreation services and events Recreation and Entertainment - Various including, Local Government Act 1972: Local Government (Miscellaneous Provisions) Act 1976</del>	<del>To discharge the powers and functions of the Council with regard to the provision and management of Sports, Leisure, entertainment and recreational facilities and events. make all necessary arrangements for the provision and advertising of leisure and recreation services and events within the general programme approved by the Council, including the engagement of artistes, negotiation of fees and conditions, issue of contracts and fixing of ticket prices.</del>	
<del>110.</del>	<del>Operation of CCTV</del>	<del>To discharge the Council's powers and functions with regard to the management and operation of CCTV in accordance with any relevant policies, codes of practice and protocols adopted by the Council [RB25].</del>	
<del>111.</del>	<del>Asset Management</del>	<del>To maintain the Council's corporate property assets in accordance with the provisions of the Council's Corporate Property Strategy and Asset Management Plan.</del>	
<del>112.</del>	<del>Indoor and outdoor sporting and recreational facilities</del>	<del>To manage or liaise for the provision of indoor and outdoor sporting and recreational facilities.</del>	
<del>113.</del>	<del>Acquisition of key regeneration sites</del>	<del>To authorise acquisitions relating to key regeneration sites, in the absence of the Chief Executive, in consultation with the Leader of the Council, the Director of Finance, Housing and Community, the Director of Governance and the Solicitor to the Council.</del>	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
114.	East Kent Waste Contract	To discharge the executive functions of Kent County Council and Shepway District Council relating to the management of the East Kent Waste Contract as detailed in paragraph 8.2 of the joint report of the Director of Landlord Services (Shepway District Council) and the Director of Property, Leisure and Waste Management (Dover District Council) to Cabinet on 13 October 2010.	Subject to the conditions and limitations set out in the three-way inter authority agreement between Dover District Council, Kent County Council and Shepway District Council.
278.	<u>Climate Change and Sustainable Energy Act 2006</u>	To exercise the powers and functions of the Council relating to	
115.	The Local Government Act 1972, the Public Health Act 1936 and the Local Authorities Cemeteries Order 1977	Powers in relation to the grant of rights of burial, rights to erect memorials and the maintenance of graves	Only those provisions relating to the matters specified in Column 2 are delegated
116.	The Refuse Disposal Amenity Act 1978	Provisions relating to abandoned vehicles	
117.	The Removal and Disposal Of Vehicles Regulations 1986	Provisions relating to abandoned vehicles etc.	
118.27	Harbours Act 1964 - Management of the Quay, Sandwich	To exercise the powers and functions of the Council in relation to The Quay, Sandwich and those parts of the River Stour and its banks which are within the ownership of the Council, including, without limitation, the granting and termination of mooring licences and agreements and the regulation of persons and vessels using these areas.	
280.	<u>Harbours Act 1964 and Deal Pier Order</u>	To exercise the powers and functions of the Council in relation to Deal Pier.	
119.	Anti-Social Behaviour	To authorise the institution of proceedings for injunctions, Anti-Social Behaviour Orders and other appropriate legal proceedings in consultation with the Solicitor to the Council, in order to prevent anti-social behaviour or damage to property, occurring within the Dover District.	
281.	<u>Localism Act 2011, Part V, Chapter 3</u>	<u>To exercise the powers and functions of the Council in relation to Assets of Community Value</u>	<u>Except Section 92 which is delegated to the</u>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
		<a href="#">Director of Governance</a>

**Delegation to:** Director of Environment and Corporate Assets  
Head of Community Safety, CCTV and Parking

Executive Functions

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions Exclusions Limitations/Notes
282. <u>Anti-Social Behaviour Act 2003 and all other powers</u>	<u>To exercise the powers and functions of the Council under the Anti-Social Behaviour Act 2003 and all other powers, to authorise the institution of proceedings for injunctions, Anti-Social Behaviour Orders and other appropriate legal proceedings in consultation with the Solicitor to the Council, in order to prevent anti-social behaviour or damage to property, occurring within the Dover District.</u>	
283. <u>Operation of CCTV</u>	<u>To discharge the Council's powers and functions with regard to the management and operation of CCTV.</u>	<u>In accordance with any relevant policies, codes of practice and protocols adopted by the Council</u> [RB26]
<del>420-28</del> Covert operations	To act as signatory for the Council in respect of targeted covert operations requested by the Police or <del>Customs and Excise</del> <u>other enforcement agencies</u>	
<del>421-28</del> Traffic Management Act 2004 (Part 6)	To exercise such of the executive functions of Kent County Council under part 6 of the Act as are exercisable in the District by virtue of the Agency Agreement made with Kent County Council on 23 January 2011 as subsequently varied.	All powers to be exercised in accordance with the requirements of the agency agreement as varied

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions Exclusions Limitations/Notes</b>
<del>122.28</del>	Road Traffic Regulation Act 1984 and Traffic Management Act 2004 (Part 6)	To exercise the Council's powers and duties in relation to the provision and maintenance of off street parking places and to be responsible for the procedural aspects of the making of orders and making provision as to their use.	Excluding determining the level of charges
<del>123.28</del>	Off street and on street parking places	To exercise the Council's powers and duties in relation to the management of all off street and on street parking places and to institute any legal proceedings in connection therewith.	Excluding determining the level of charges
<del>124.28</del>	Road Traffic Regulation Act 1984 (Section 102) and Traffic Management Act 2004 (Part 6)	To move any vehicle or arrange for any vehicle to be removed from any controlled parking place when any vehicle is left in such a parking place in contravention of any of the provisions contained in the appropriate Order and to take all such further action in connection therewith as is permitted by the said Order: and further to exercise all the powers conferred on the Council .	
<del>125.28</del>	Town Police Clauses Act 1847	To determine applications for the temporary restriction of highways.	
<del>126.</del>	<del>Street name plates and street lighting</del>	<del>To exercise the powers and functions of the Council in relation to street name plates and street lighting.</del>	
<del>127.</del>	<del>Goods Vehicles (Licensing of Operators) Act 1995</del>	<del>To make objections and representations on behalf of the local authority to the grant of applications for operators licences</del>	
<del>128.</del>	<del>Number houses and to mark or re-mark street names</del>	<del>To number houses and to mark or re-mark street names[RB27].</del>	
<del>129.</del>	<del>Manage the major projects</del>	<del>To take all steps necessary to undertake and manage the Council's major projects in accordance with approved policy and budget.</del>	
<del>130.29</del>	<del>Highways Act 1980 (Part VIIA) – Provision of amenities on certain highways</del> <del>Provision of services, amenities, recreation, and refreshment facilities on the highway and related powers</del>	<del>To exercise the powers and functions of the Council under Part VIIA in relation to the provision of amenities etc on highways</del> <del>To grant permission for provision, etc of services, amenities, recreation, and refreshment facilities on the highway and related powers.</del>	
<del>131.</del>	<del>Highways Act 1980 (Section 115E)</del>	<del>To publish notice in respect of proposal to grant permission under Section 115E of the Highways Act 1980.</del>	

Column 1 Legislation		Column 2 Brief Description	Column 3 Conditions Exclusions Limitations/Notes
291.	<u>Anti-Social Behaviour Act 2003 (Part 8)</u>	<u>To exercise the powers and functions of the Council in relation to High Hedges.</u>	

**Delegation to:** ~~Head of Regeneration and Development~~ Director of Environment and Corporate Assets  
**Head of Assets and Building Control**

Executive Functions

	<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
292.	<u>Local Government (Miscellaneous Provisions) Act 1976 - Section 23 to 26</u>	<u>To exercise the powers and functions of the Council in relation to dangerous trees and excavations</u>	
248-29	Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 58)	To decide upon the recovery of sums paid out in respect of repairs to properties.	
249-29	Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 57) or the Town Grant Scheme	Where the total amount repayable does not exceed £250, and subject to the concurrence of the Section 151 Officer, to determine if grants made should be repaid.	
250.	<del>Transport Act 1968 (Sections 63 and 64 [hr28])</del>	<del>To make representations to the Licensing Authority in respect of applications for goods vehicle operators' licences.</del>	
295.	<u>Goods Vehicles (Licensing of Operators) Act 1995</u>	<u>To make objections and representations on behalf of the local authority to the grant of applications for operators licences</u>	
251-29	Building (Local Authority Charges) Regulations 2010  Building Act 1984 (all sections that relate to Building Regulations and allied powers including Sections 9, 10, 15, 16, 19, 20, 21, 22, 23, 24, 25, 31, 32, 33, 35, 36, 37, 39, 47, 48, 50, 51, 52, 53, 56, 62, 63,	(a) Functions relating to Building Regulations and allied functions.  (b) To operate the Council's scheme of charges and to vary the standard charge scales in accordance with the Council's Scheme of Charges.	

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	64, 65, 68, 70, 73, 74, 75, 91, 91A, 93, 95, 96, 97, 99, 100, 107, 108, 109, 110 and 120 and the Building Regulations 2010 as amended  Building (Approved Inspectors, etc) Regulations 2010  Building Regulations		
297.	<u>Building Act 1984 (Sections 77 and 78)</u>	<u>To serve Notices and take all necessary action in respect of dangerous buildings and structures .</u>	
<del>252-29</del>	<u>Building Act 1984 (Section 81 and 82)</u>	<u>To approve applications for intended demolitions and serve the appropriate notices.</u>	
299.	<u>Public Health Act 1925 (Section 17 – 19) – Naming of streets</u>	<u>To exercise the powers and functions of the Council in relation to the naming of streets</u>	
300.	<u>Public Health Act 1875 - Street lighting</u>	<u>To exercise the powers and functions of the Council in relation to the lighting of the district.</u>	
301.	<u>County of Kent Act 1981 (Section 10) – Power to allocate numbers to buildings in streets</u>	<u>To exercise the powers and functions of the Council in relation to the numbering of buildings.</u>	
253.	<u>Building Act 1984 (Sections 77 and 78)</u>	<u>To serve Notices and take all necessary action in respect of dangerous buildings and structures .</u>	

**Delegation to:        Director of Environment and Corporate Assets  
   Museums and Tourism Manager**

Executive Functions

<b>Column 1 Legislation</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/ Exclusions Limitations/Notes</b>
<del>254-30</del> Tourist Information Centres,	<del>To manage or liaise for the provision of the Tourist Information Centres,</del>	<u>Includes the power to</u>

Column 1 Legislation	Column 2 Brief Description	Column 3 Conditions/ Exclusions Limitations/Notes
<del>museums and other tourist attractions</del> <u>Power to Encourage Visitors – section 144 Local Government Act 1972</u>	<del>museums and other tourist attractions.</del> <u>To exercise the powers and functions of the Council in relation to the provision of information, publicity advertising and facilities.</u>	<u>manage tourist information centres and working in partnership with other agencies.</u>
255.30 <del>Official guide books and other publicity and information material</del> <u>Provision and maintenance of museums and galleries – Museums and Libraries Act 1964</u>	<del>To produce and publish official guide books and other publicity and information material including insertion of any advertisement in national and local journals</del> <u>To exercise the powers and functions of the Council in relation to the provision, maintenance and management of museums and art galleries .</u>	
256. <del>Joint marketing schemes</del>	<del>To co-operate in joint marketing schemes.</del>	
257. <del>Display at exhibitions and in museums</del>	<del>To select items for display at exhibitions and in museums.</del>	
304. <del>Salter Collection Charity</del>	<del>To keep under review the proper administration of the Salter Collection Charity and and to make periodic reports to the Cabinet.</del>	<u>All matters requiring a decision of the Council as trustee to be taken by Cabinet.</u>

**D. Conditions or Limitations (if any) [Council Functions]**

None.

**E. Conditions or Limitations (if any) [Executive Functions]**

None.

**SECTION 7: CONSULTATIVE COMMITTEES AND ADVISORY BOARDS**

**1. Joint Staff Consultative Forum**

**Membership:** 5 Members of the Authority.

**Functions:**

1. To act as a medium for negotiations between the Council and its Officers except in matters of individual discipline, promotion or efficiency.
2. To consider matters affecting the interests of the Council and staff and to make recommendations to the Council.
3. To consider any relevant matter referred to by the Council or its Committees or any of the staff organisations.
4. To encourage such other functions specifically assigned to the Joint Committee.

**Terms of Reference:**

1. Title

The Committee shall be called the Joint Staff Consultative Forum (hereinafter referred to as "the Joint Forum").

2. Representation

The Joint Forum shall comprise:

- (i) Five Members of the Dover District Council.
- (ii) Five representatives of the Officers of the Council, being representatives elected by the Dover District Branch of UNISON (hereinafter referred to as "the Branch"), or by any other Union recognised by the District Council for the purposes of consultation in proportion to their Members.

3. Method of Appointment

The Council Members shall be elected by the Council at its Annual meeting in each Council year. The representatives of the Officers shall be notified to the Head of Democratic Services within 21 days after each annual meeting of the Council.

Members of the Joint Forum shall hold office until the appointment of their successors. A retiring member shall be eligible for re-appointment.

If a member of the Joint Forum ceases to be a Member of the Council or Officer of the Council he or she shall thereupon cease to be a member of the Joint Forum, and such vacancy shall be filled by the Council or by the Branch (or other Union), as the case may be.

4. Chairman and Vice-Chairman

The Joint Forum shall, at its first meeting in each Council year, appoint a Chairman and Vice-Chairman. If the Chairman appointed be a Member of the Council, the Vice-Chairman shall be appointed from the Staff Side, and vice versa. The Chairman of a meeting shall not have a casting vote.

5. Attendance of Substitutes

If a member of the Joint Forum is not able to attend any meeting the member concerned may nominate a substitute.

6. Functions

The functions and objects of the Joint Forum shall be:

- (i) to consider matters affecting the interests of the Council and staff and to make recommendations to the Council or an appropriate committee.
- (ii) to consider any relevant matter referred to by the Council or its Committees or any of the staff organisations.
- (iii) to receive the outcomes from the Joint Negotiation Forum which require approval by the Council's General Purposes Committee.
- (iv) to consider such other matters specifically assigned to the Joint Forum.

**Regulations**

7. Meetings

Meetings of the Joint Forum shall be held on dates to be approved by the Council. Additional meetings shall be convened at the request of the Chairman and/or Vice-Chairman.

8. Business

The agenda for each meeting shall be despatched so as to reach members at least five days before the scheduled date, except in cases of emergency.

9. Quorum

The quorum of the Joint forum shall be two members of the Council's side and two members of the Staff Side.

10. Record of Attendance

The names of the members attending a meeting of the Joint Forum shall be recorded in the notes and every member attending shall sign the attendance book or sheet provided for that purpose.

11. Attendance in Advisory Capacity

The Council's side of the Joint Forum shall have the right to arrange for the attendance, in an advisory capacity, of officials of the Council at meetings of the Joint Forum. Similarly, the Staff Side may be advised by the relevant Union officials.

12. Decisions of the Joint Forum

- (i) A recommendation from the Joint Forum to the Council shall only arise on a majority vote by each side of the Joint Forum separately;
- (ii) All decisions of the Joint Forum, other than matters of procedure, are subject to confirmation by the Council;
- (iii) If there is a failure of the Forum to agree on any issue, such failure to agree shall be reported to the Council.

13. Release of Employees

Employees shall be released from duty with pay for attendance at meetings of the Joint Forum, and travelling and subsistence expenses shall be reimbursed where appropriate.

Paid leave for this purpose will include the normal earnings which would have been paid had the employees been in work.

Facilities shall be made available to the Staff Side of the Joint Forum to meet, if necessary during working hours, to consider the agenda of any meeting of the Joint Forum.

14. Press and Public

This is a Consultative Forum which deals with staffing issues and the press and public will not normally be invited to attend these meetings. The Local Government (Access to Information) Act 1985 does not apply to these meetings.

## 2. **Joint Health Safety and Welfare Consultative Forum**

**Membership:** 5 Members of the Authority.

### **Functions:**

1. To consider all matters relating to the health, safety and welfare of all personnel employed by Dover District Council and to submit to the Council advice and recommendations thereon.

### **Terms of Reference:**

#### 1. Title

The Committee shall be called 'the Joint Health Safety and Welfare Consultative Forum' (hereinafter referred to as "the Joint Forum").

#### 2. Representation

The Joint Forum shall comprise:

- (i) Five Members of the Dover District Council.
- (ii) Five representatives of the Officers of the Council, being representatives elected by the Dover District Branch of UNISON (hereinafter referred to as "the Branch"), or by any other Union recognised by the District Council for the purposes of consultation in proportion to their Members.

#### 3. Method of Appointment

The Council Members shall be elected by the Council at its Annual meeting in each Council year. The representatives of the Officers shall be notified to the Head of Democratic Services within 21 days after each annual meeting of the Council.

Members of the Joint Forum shall hold office until the appointment of their successors. A retiring Member shall be eligible for re-appointment.

If a Member of the Joint Forum ceases to be a Member of the Council or Officer of the Council he or she shall thereupon cease to be a Member of the Joint Forum, and such vacancy shall be filled by the Council or by the Branch (or other Union), as the case may be.

#### 4. Chairman and Vice-Chairman

The Joint Forum shall, at its first meeting in each Council year, appoint a Chairman and Vice-Chairman. If the Chairman appointed be a Member of the Council, the Vice-Chairman shall be appointed from the Staff Side, and vice versa. The Chairman of a meeting shall not have a casting vote.

5. Attendance of Substitutes

If a member of the Joint Forum is not able to attend any meeting the member concerned may nominate a substitute.

6. Functions

The functions and objects of the Joint Forum shall be to consider all matters relating to the health, safety and welfare of all personnel employed by Dover District Council and to submit to the Council advice and recommendations thereon.

**Regulations**

7. Meetings

Meetings of the Joint Forum shall be held on dates to be approved by the Council. Additional meetings shall be convened at the request of the Chairman and/or Vice-Chairman.

8. Business

The agenda for each meeting shall be despatched so as to reach members at least five days before the scheduled date, except in cases of emergency.

9. Quorum

The quorum of the Joint Forum shall be two members of the Council's side and two members of the Staff Side.

10. Record of Attendance

The names of the members attending a meeting of the Joint Forum shall be recorded in the notes and every member attending shall sign the attendance book or sheet provided for that purpose.

11. Attendance in Advisory Capacity

The Council's side of the Joint Forum shall have the right to arrange for the attendance, in an advisory capacity, of officials of the Council at meetings of the Joint Forum. Similarly, the Staff Side may be advised by the relevant Union officials.

12. Decisions of the Joint Forum

- (i) A recommendation from the Joint Forum to the Council shall only arise on a majority vote by each side of the Joint Forum separately;
- (ii) All decisions of the Joint Forum, other than matters of procedure, are subject to confirmation by the Council in relation to matter of policy, and by Corporate Management Team in relation to operational matters;

- (iii) If there is a failure of the Forum to agree on any issue, such failure to agree shall be reported to Council.

13. Release of Employees

Employees shall be released from duty with pay for attendance at meetings of the Joint Forum, and travelling and subsistence expenses shall be reimbursed where appropriate.

Paid leave for this purpose will include the normal earnings which would have been paid had the employees been in work.

Facilities shall be made available to the Staff Side of the Joint Forum to meet, if necessary during working hours, to consider the agenda of any meeting of the Joint Forum.

14. Press and Public

This is a Consultative Forum which deals with staffing issues and the press and public will not normally be invited to attend these meetings. The Local Government (Access to Information) Act 1985 does not apply to these meetings.

3. **Dover Joint Transportation Board**

**Membership:** All KCC Members for divisions in the District Council's area and an equal number of Members appointed by the District Council and a non-voting representative of the Parish and Town Councils within the District. The Council may appoint substitutes for its Members.

**Status:** The JTB shall be a non-statutory forum.

**Terms of Reference:**

The Joint Transportation Board will:

1. Consider:

- (a) capital and revenue funded works programmes
- (b) traffic regulation orders
- (c) street management proposals

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

- 2. Be a forum for consultation between Kent County Council and the Council on policies, plans and strategies related to highways, road traffic and public transport.
- 3. Review the progress and outturn of works and business performance indicators.
- 4. Recommend and advise on the prioritisation of bids for future programmes of work.
- 5. Receive reports on highways and transportation needs within the District.



## **Regulations:**

### 1. Chairman

In alternate years a Member of KCC (who is a member of the JTB) will chair the JTB and a Council Member (who is a member of the JTB) will be Vice-Chairman of the JTB and then a Member of the Council will chair the JTB and a KCC Member will be Vice-Chairman of the JTB and so on following on the arrangements which existed in the year before the new agreement came into force. The Chairman and Vice-Chairman will be appointed by the respective Councils as they may determine within their constitutional arrangements. The Chairman and Vice-Chairman of the JTB will take office at the first meeting of the JTB following the Annual Meetings of both Councils each year.

### 2. Meetings

The JTB will generally meet four times yearly. The dates, times and venues to be agreed by the JTB.

### 3. Quorum

The quorum for a meeting shall be four comprising at least two voting members present from each of KCC and the District Council.

### 4. Rules of Debate

If a formal motion is proposed and seconded the rules of debate applying to the District Council Committees shall apply.

### 5. Voting

If a matter has to be put to the vote, voting shall be by a show of hands with the Chairman having a second or casting vote.

### 6. Dissent on a Decision

Any member may require that his/her dissent from the JTB's advice or the way he/she cast his/her votes be recorded in the Minutes of the meeting.

### 7. Access to Information

The rules and procedures of the District Council relating to access to information as set out in Sections 100(A)-(K) of the Local Government Act 1972 (as amended) shall apply.

### 8. Support

The JTB will be clerked by an officer of the District Council. Copies of all papers shall be sent to the Monitoring Officers of both Councils who may attend and speak

at any meeting (or instead each Monitoring Officer may arrange for a substitute officer to speak on his/her behalf).

9. Local Member and Parish Consultation

The local members of both the KCC and the District Council and the Parish or Town Council(s) will be consulted on any relevant scheme proposals (other than routine operational maintenance of the highway) within the scope of the Agreement.

10. Executive Action

- (a) The KCC Executive will normally act in accordance with the advice or views of the JTB. If the Executive is minded to act otherwise, no decision will be taken until after a discussion at the KCC Highways Advisory Board at which the Chairman and Vice-Chairman of the JTB may attend and speak.
- (b) The District Council Executive will normally act in accordance with the advice or views of the JTB. If the Executive is minded to act otherwise, no decision will be taken until after a discussion between the relevant Executive member and the Chairman and Vice-Chairman of the JTB.

*References: Chapter 5, Guidance  
The Local Authorities (Functions and Responsibilities) (England)  
Regulations 2000  
Section 13, Local Government Act 2000*

## Part 4

### Rules of Procedure

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# Council Procedure Rules

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# 1. ANNUAL MEETING OF THE COUNCIL

## 1.1 Timing and business

*This rule applies to Council only.*

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (i) elect a person to preside if the chairman or vice-chairman of the Council is not present;
- (ii) elect the chairman of the Council;
- (iii) elect the vice-chairman of the Council;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the chairman and/or Head of Paid Service;
- (vi) elect the Leader to hold office for four years and remain in position until the day of the next annual meeting of the Council following the ordinary election of all Councillors;
- (vii) to note the size and composition of the executive set by the Leader of the Council;
- (viii) to note the appointment of the Deputy Leader to hold office until the day of the next annual meeting of the Council following the ordinary election of all councillors;
- (ix) to note the appointment of Members to their portfolios to hold office until the day of the next annual meeting following the ordinary election of all councillors;
- (x) note the composition of the Shadow Cabinet which must directly reflect the Cabinet;
- (xi) appoint at least one Overview and Scrutiny Committee, a Standards Committee, a Licensing Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Leader/executive functions (as set out in Part 3, Section 2 of this Constitution);
- (xii) agree or adopt the Schemes of Delegation or such part or parts thereof as the Constitution determines it is for the Council to agree or adopt (as set out in Part 3 of this Constitution);
- (xiii) approve a programme of ordinary meetings of the Council for the year;
- (xiv) consider any business set out in the notice convening the meeting;

- (xv) receive the Annual Reports of the , Overview and Scrutiny Committee(s), Standards Committee and Governance Committee; and
- (xvi) consider any business deemed by the Chairman of the Council to be a matter of urgency.

The Council may remove the Leader of the Council by a simple majority vote following a motion on notice on the matter and elect a new Leader. The new Leader will be responsible for appointing a Deputy Leader and Cabinet.

Any casual vacancy in the office of Leader shall be filled until the day of the next annual meeting of the Council following the ordinary election of all councillors at the next meeting of the Council.

## 1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (i) decide which committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules (where applicable);
- (iv) receive nominations of councillors to serve on each committee and outside bodies; and
- (v) appoint to those committees and outside bodies (except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive).

## 2. ORDINARY MEETINGS

*This rule applies to Council only.*

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. 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 declarations of interest from members;
- (v) receive any announcements from the Chairman, Leader, Members of the Cabinet or the Head of Paid Service;
- (vi) receive a report from the Leader and Cabinet on the business of the executive;



- (vii) receive questions (on written notice) 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 Council;
- (viii) deal with any business from the last Council meeting;
- (ix) consider and determine recommendations from the executive in relation to the Council's Budget and Policy Framework;
- (x) receive questions (on written notice) from members of the Council to the Leader and members of the Cabinet;
- (xi) receive questions (on written notice) from members of the Council to chairmen or vice-chairmen of overview and scrutiny committees and chairmen or vice-chairmen of other committees of the Council;
- (xii) consider and determine reports and recommendations of the overview and scrutiny committees;
- (xiii) consider motions in the order in which notice has been received;
- (xiv) consider a motion on notice to remove the Leader of the Council, any other business specified in the summons to the meeting or any business deemed by the Chairman to be urgent by reason of special circumstances.

Business falling under items (i), (ii), (iii) or (iv) of this Rule shall not be displaced, but subject thereto, the foregoing order of business may be varied:-

- (a) By the Chairman at his discretion.
- (b) By a resolution passed on a motion (which need not be in writing) duly moved and seconded, which shall be moved and put without discussion.

### **3. EXTRAORDINARY MEETINGS**

*This rule applies to Council only.*

#### **3.1 Calling extraordinary meetings**

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chairman of the Council;
- (iii) the Head of Paid Service or the Monitoring Officer;
- (iv) any five members of the Council if they have signed a requisition presented to the Chairman of the Council specifying the business to be transacted and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

3.2 Council Procedure Rule 2 shall not apply to an extraordinary meeting of the Council with the exception of (i), (ii), (iv), (v), and (xiv). All other sub-paragraphs shall not apply.

#### 4. **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES, SUB-COMMITTEES AND PANELS/GROUPS**

*This rule applies to Committees, Sub-Committees and Panels/Groups.*

- (1) A full member of a Committee or Sub-Committee or Panel/Group who is unable to attend a meeting and wishes a substitute member to attend the meeting in his/her place, shall make the necessary arrangements with any other member of his/her political group and shall either give, or arrange for the nominated substitute member or any other member of his/her political group, to give notice of the substitution before the time when the meeting is to commence, either in written or oral form to the Committee Officer named on the agenda.
- (2) Neither the Chairman or Vice-Chairman of the Council nor any member of the executive shall act as a substitute for any member of any Scrutiny Committee.
- (3) For each committee, with the exception of the Cabinet, the Council will allow the same number of substitutes in respect of each political group as that group holds ordinary seats on that committee.
- (4) The effect of a valid notice of substitution (whether written or oral) shall be that the full member shall cease to be a member of the Committee or Sub-Committee or Panel/Group (as the case may be) for the duration of that meeting (and for the duration of any adjournment of that meeting) and that the substitute member shall be a full member of the Committee or Sub-Committee or Panel/Group (as the case may be) for the same period; and that the full member shall resume membership of that Committee or Sub-Committee or Panel/Group after the conclusion of that meeting (including any adjournment thereof).
- (5) A valid notice of substitution (whether written or oral) once given in respect of a meeting of a Committee or Sub-Committee or Panel/Group may not be revoked in respect of such meeting or any adjournment of it.
- (6) The Committee Officer (or his/her representative) shall announce the appointment of any substitute members made in accordance with this Standing Order at the commencement of the meeting.
- (7) In the event of the Chairman of a Committee or Sub-Committee or Panel/Group being absent and appointing a substitute member to attend in his/her place, the substitute member may only act as an ordinary member and will not assume any rights of the full member to act as Chairman (and in such event the normal rules as to the Vice-Chairman taking the chair will apply). In the absence of both the Chairman and Vice-Chairman from a meeting (and the appointment of substitute members to attend in their place) the meeting shall appoint a Chairman for the meeting who may be drawn from any members (including any substitute member) present and with voting rights.

- (8) (a) Only members who have received the appropriate training may be appointed to act as substitutes on:
- (i) the Planning Committee
  - (ii) the Regulatory Committee
  - (iii) the Licensing Committee
  - (iv) the Governance Committee
  - (v) the Standards Committee
- (b) Only members of the committees named at Rule 4(8)(a) may be appointed to act as substitutes on their respective sub-committees.

## 5. TIME AND PLACE OF MEETINGS

*This rule applies to meetings of Council, Committees and Sub-Committees.*

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

## 6. NOTICE OF AND SUMMONS TO MEETINGS

*This rule applies to meetings of Council, Committees and Sub-Committees.*

The Proper 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 Proper Officer will send a summons signed by him or her to every member of the Council. All Members serving on a body will receive [an electronic printed copy unless they have requested a paper copy which they will receive](#) at their usual place of residence. All other Members will receive an electronic notification by e-mail. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## 7. CHAIR OF MEETING

*This rule applies to meetings of Council, Committees and Sub-Committees.*

Any power or duty of the Chairman in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## 8. QUORUM

*This rule applies to meetings of Council, Committees and Sub-Committees.*

8.1 The quorum of a meeting of the Council will be one quarter of the whole number of Members. Subject to rule 8.2, the quorum for a meeting of a committee or sub-committee shall be one quarter of the whole number of members provided that it shall not comprise less than three members.

8.2 The quorum for meetings of the Joint Consultative Fora or the Dover Joint Transportation Board shall be determined in accordance with the relevant part of Section 6 of Part 3 (Responsibility for Functions).

- 8.3 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. (The chairman may adjourn the meeting for fifteen minutes if satisfied that the meeting can become quorate within that period.) 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.

## 9. **DURATION OF MEETING**

*This rule applies to meetings of Council, Committees and Sub-Committees.*

Unless the majority of members present vote for the meeting to continue, any meeting that has not concluded its business by 10 pm 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.

## 10. **LEADER'S TIME**

*This rule only applies to Council meetings.*

- 10.1 The Leader (with support from the Cabinet) shall give an oral report of the business of the Executive to each ordinary meeting of the Council. The Leader (and Cabinet) shall have up to fifteen minutes to make within this report any statements that they wish on any topic or subject that they feel should be drawn to the attention of the Council.
- 10.2 The Leader of the Main Opposition Group (or person nominated by the Leader of the Opposition Group to speak at the meeting) shall be allowed up to ten minutes to respond.
- 10.3 The Leader of any other Opposition Group (or person nominated by the Leader of that Opposition Group to speak at the meeting) shall be allowed up to five minutes to respond.
- 10.4 Following this, the Leader shall be allowed up to five minutes to exercise a right of reply (or 25% of the time given to the Opposition Group Leaders, whichever is greatest).

## 11. **QUESTIONS BY THE PUBLIC**

This rule only applies to Council meetings.

### 11.1 **General**

Any member of the public may ask questions of members of the executive at ordinary meetings of the Council.

### 11.2 **Order of questions**

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

### 11.3 **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 Proper Officer no later than 5.00 pm on the eighth working day before

the day of the meeting. Each question must give the name and address of the questioner and must name the member of the Executive to whom it is to be put. The electronic version of the agenda on the internet will be updated with the questions that are received after the despatch of the agenda.

#### **11.4 Number of questions**

At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation. A maximum of three minutes shall be allowed for the question to be read. The period for questions by the public shall be limited so that no further question shall be put after the elapse of 15 minutes from the commencement of the first question.

#### **11.5 Scope of questions**

The Proper Officer may reject a question if:

- it is not about a matter for which the local authority has a responsibility or which affects the district;
- it is defamatory, frivolous or offensive;
- it is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- it requires the disclosure of confidential or exempt information; or
- it relates to a personal issue or an individual case.

#### **11.6 Record of questions**

The Proper Officer will make a record of each question which is open to public inspection and will immediately send a copy of the question to the member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

#### **11.7 Asking the question at the meeting**

The chairman will invite the questioner to put the question to the member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the chairman to put the question on their behalf. The chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

#### **11.8 Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the member who has replied to his or her original question. A

supplementary question must arise directly out of the original question or the reply. The chairman may reject a supplementary question on any of the grounds in Rule 11.5 above.

#### **11.9 Discussion**

Any member may be allowed, at the Chairman's discretion, up to two minutes to speak on a question/reply.

#### **11.10 Reference of question to the executive or a committee**

Any member may move that a matter raised by a question be referred to the executive or the appropriate committee or sub-committee.

#### **11.11 Written answers**

Any questions which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

### **12. QUESTIONS BY MEMBERS**

*This rule applies to meetings of Council, Committees and Sub-Committees, except 12.1 which applies only to full Council.*

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

Subject to Rule 12.3, a member of the Council may ask:

- the chairman or vice-chairman;
- the Leader of the Council or a member of the executive; 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.

#### **12.2 Questions on notice at committees and sub-committees**

Subject to Rule 12.3, 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 affects the District and which falls within the terms of reference of that committee or sub-committee.

#### **12.3 Notice of questions**

A member may only ask a question under Rule 12.1 or 12.2 if either:

- (a) they have given not less than eight clear working days' notice in writing or by electronic mail of the question to the Proper Officer; or

- (b) the question relates to urgent matters, they have the consent of the member to whom the question is to be put and the content of the question is given to the Proper Officer by 12 noon on the day of the meeting.

#### 12.4 **Response**

Every question shall be put and answered without discussion. The person to whom a question has been put may decline to answer, but must provide a valid reason for this approach.

An answer may take the form of:

- (a) a direct oral answer (the preferred approach);
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) a written answer circulated later to the questioner where the reply cannot concisely or conveniently be given orally or to support an oral answer.

#### 12.5 **Supplementary question**

A member asking a question under Rule 12.1 or 12.2 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.

#### 12.6 **Timing**

No original or supplementary question shall be asked more than 60 minutes after the Council has entered on the item of business under which questions by members are to be asked unless in the view of the Chairman, or on a motion moved by a member, seconded and approved by the Council, it is deemed appropriate to extend the time. Questions on written notice which have not been asked before the end of the 60 minutes allowed (or any extension thereof) will not be asked but a written answer will be given through the Proper Officer.

### 13. **MOTIONS ON NOTICE**

*This rule only applies to meetings of Council.*

#### 13.1 **Notice**

Except for motions which can be moved without notice under Rule 134, written notice of every motion, signed by the member or members of the Council giving the notice, must be delivered to the Proper Officer not later than eight clear working days before the date of the meeting. A record of the written notices will be maintained which will be open to public inspection.

#### 13.2 **Motion set out in agenda**

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it at a later meeting or withdraw it.

If a motion set out in the agenda is not moved by the member who gave notice thereof it shall, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

### 13.3 **Scope**

Motions must be about matters for which the Council has powers or duties or which affects the District.

### 13.4 **Removal of the Leader of the Council from office**

The Leader of the Council may be removed from office by a simple majority vote following a motion on notice of all the Members voting and present in the room at the time the question was put.

### 13.5 **Referral for Consideration and Report**

If the subject matter of any motion of which notice has been duly given comes within the province of any Committee or Committees it may, upon being moved and seconded, be referred with or without discussion to such Committee or Committees, or to such other Committee or Committees as the Council may determine, for consideration and report. The intention is to debate wherever possible and reasonable at the Council meeting. Alternatively the motion may be referred to the Cabinet for consideration and report. Provided that the Council considers it convenient and conducive to the despatch of business, it should allow the motion to be dealt with at the meeting at which it is brought forward.

## 14. **MOTIONS WITHOUT NOTICE**

*This rule applies to meetings of Council, Committees and Sub-Committees.*

The following motions may be moved without notice:

- (a) to appoint a chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a committee or member thereof arising from an item on the summons for the meeting;
- (f) to receive reports or adoption of recommendations of the executive or committees or officers and any resolutions following from them;



- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn a debate;
- (l) to adjourn a meeting;
- (m) On the hour of 10 pm being reached "that the Council do proceed with the business remaining on the agenda";
- (n) to suspend a particular council procedure rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) to not hear further a member named under Rule 22.3 or to exclude them from the meeting under Rule 22.3;
- (q) to give the consent of the Council where its consent is required by this Constitution;
- (r) that the Council resolve into a Committee of the whole Council.

## 15. **RULES OF DEBATE**

*This rule applies to meetings of Council only.*

The following rules of debate shall apply to all matters except those reserved for Council determination under any statutory requirement.

### 15.1 **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

### 15.2 **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.

### 15.3 **Seconders' speech**

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

#### 15.4 **Content and length of speeches**

- (a) A member shall direct his speech to the question under discussion or to a personal explanation or to a point of order.
- (b) A speech by a member shall not exceed three minutes except for the proposer of the motion who shall have an additional five minutes to sum up at the end of the debate.

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

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on any amendment subsequently moved by themselves or another member;
- (b) in exercise of a right of reply;
- (c) on a point of order; and
- (d) by way of personal explanation.

#### 15.6 **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 or displace 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.

### 15.7 **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.

### 15.8 **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.

### 15.9 **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.

### 15.10 **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) on the hour of 10 pm being reached "that the Council do proceed with the business remaining on the agenda";

- (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 22.3 or to exclude them from the meeting under Rule 22.3.

#### 15.11 **Closure motions**

- (a) A member 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 or 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.

#### 15.12 **Chairman's Action**

The Chairman may at any time upon being satisfied that any motion has been fully debated by the Council, require that "the vote be now taken" but so that before the vote is taken the proposer of an original motion shall be entitled to exercise his right of reply.

#### 15.13 **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.

#### 15.14 **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 in the present debate. The ruling of the chairman on the admissibility of a personal explanation will be final.

## 16. **MATTERS AFFECTING PERSONS EMPLOYED BY THE COUNCIL**

*This rule applies to meetings of Council, Committees and Sub-Committees.*

If any question arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation benefits or conditions of service or as to the personal conduct of any person employed by the Council, it shall not be considered until a resolution to exclude members of the press and public under Section 100(A)(4) of the Local Government Act 1972 has been passed.

## 17. **PREVIOUS DECISIONS AND MOTIONS**

*This rule applies to meetings of Council only.*

### 17.1 **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 at least one third of the members of the Council.

### 17.2 **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 at least one third of the members of the Council. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

17.3 Provided that Rules 17.1 and 17.2 shall not apply to motions moved in pursuance of the report or a recommendation of the executive or a committee or an officer.

## 18. **VOTING**

*This rule applies to meetings of Council, Committees and Sub-Committees.*

### 18.1 **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.

### 18.2 **Chairman's casting vote**

If there are equal number 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.

### 18.3 Show of hands

Unless a recorded vote is demanded under Rule 18.4, the chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 18.4 Recorded vote

If six members present at the meeting request it, the names for and against or abstaining from the motion or amendment will be taken down in writing and entered into the minutes.

### 18.5 Right to require individual vote to be recorded

- (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 vote for the question or against the question or whether he or she abstained from voting.
- (2) In this paragraph "relevant body" means the Council, a committee or sub-committee of the Council or a relevant joint committee or sub-committee of such a committee.

### 18.6 [Voting on budget decisions](#)<sup>[RB29]</sup>

Immediately after any vote is taken at a budget decision meeting of the council there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting.

Budget decision meeting shall have the meaning given to it in The Local Authorities (Standing Orders) (England) Regulations 2001 as amended.

(a) Budget decision means a meeting of the authority at which it –

(i) Makes a calculation (whether originally or by way of substitute) in accordance with any of the sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52ZF, 52ZJ of the Local Government Finance Act 1992; or

(ii) Issues of precept under Chapter 4 of Part 1 of that act and includes a meeting where making a calculation or issuing the precept as the case may be included as an item of business on the agenda for that meeting.

(b) Reference to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

### 18.7 [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.

## 18.78 Voting in Committee and Sub-Committee

This rule only applies to Committees and Sub-Committees.

All questions in Committee and Sub-Committee shall be determined by show of hands by majority of the members present and voting.

## 19. MINUTES

*This rule applies to meetings of Council, Committees and Sub-Committees.*

### 19.1 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. The only part of the minutes that can be discussed is their accuracy.

### 19.2 No requirement to sign minutes of previous meeting at extraordinary meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

### 19.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the chairman put them.

## 20. RECORD OF ATTENDANCE

*This rule applies to meetings of Council, Committees and Sub-Committees.*

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.

## 21. EXCLUSION OF PUBLIC

*This rule applies to meetings of Council, Committees and Sub-Committees.*

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 23 (Disturbance by Public).

## 22. MEMBERS' CONDUCT

*This rule applies to meetings of Council, Committees and Sub-Committees with the exception of rule 22.1 which applies to Council only.*

### 22.1 Standing to speak

When a member speaks at full Council they must stand and address the meeting through the chairman unless the chairman gives them dispensation not to. 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.

## 22.2 **Chairman standing**

When the chairman indicates by standing or by some other means during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.

## 22.3 **Disorderly conduct and suspension of sitting**

- (1) If at a meeting any member of the Council in the opinion of the Chairman misconducts himself or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by obstructing the business of the Council, it shall be competent for the Chairman or a member to move "that the member named be not further heard" or "that the member named do leave the meeting", in either case, for the remainder of the meeting or for such less period as may be specified in the motion, and the motion if seconded shall be put and determined without discussion.
- (2) If after such a motion under paragraph (1) of this Rule has been carried, the member named fails to observe the Council's decision, the Chairman may, without question put, give such directions as he or she may consider appropriate for the removal of the member and restoration of order, and in addition, if need be, suspend the sitting of the Council for such period as he or she in his discretion shall consider expedient.
- (3) In the event of serious disorder or of persistent disregard of the authority of the Chairman, the Chairman may, without prejudice to any other powers vested in him or her, direct that the meeting be suspended.

## 23. **DISTURBANCE BY MEMBERS OF THE PUBLIC**

*This rule applies to meetings of Council, Committees and Sub-Committees*

If a member of the public interrupts the proceedings at any meeting the Chairman shall warn him or her. If he or she continues the interruption the Chairman shall order his removal from the Council Chamber. In case of general disturbance in any part of the chamber open to the public the Chairman shall order that part to be cleared.

## 24. **ATTENDANCE AT MEETINGS**

This rule applies to meetings of Council, Committees and Sub-Committees only.

- 24.1 The Proposer and Seconder of a motion which falls within the provisions of Rule 13.5 shall have the right to attend the meeting of the Committee at which it is proposed to consider the motion for the purpose of explaining it.
- 24.2 Subject to paragraph (1) above, no Member of the Council is entitled to take part in any proceedings of any Committee or Sub-Committee unless:-



- (i) he is a duly appointed member of the Committee or Sub-Committee
- (ii) he is requested or permitted to do so by the Committee or Sub-Committee.
- (iii) the matter under discussion affects a Parish of which he or she is the local member.

24.3 A resolution by a Committee or Sub-Committee to exclude members of the public in accordance with the Access to Information Rules in Part 4 of this Constitution shall not apply to a member of the Council not being a member of the Committee or Sub-Committee attending the meeting at which such a resolution is passed.

24.4 Members' right to speak at Planning Committee shall be exercised in accordance with the Protocol on Public Speaking at Planning Committee.

## 25. **SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

*This rule applies to meetings of Council, Committees and Sub-Committees with the exception of 25.3 which applies to meetings of Council only.*

### 25.1 **Suspension**

- (1) Subject to paragraph (2) of this Rule, any of the preceding Rules except 18.5 and 19.2 may be suspended so far as regards any business at the meeting where its suspension is moved.
- (2) A motion to suspend a Rule of Procedure shall not be moved without notice (ie under Rule 14) unless there shall be present at least one half of the whole number of members of the Council.

### 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.

### 25.3 **Variation of arrangements for an ordinary or extraordinary meeting**

There may on occasions be a need for the Order of Business (Council Procedure Rule 2) and rules of debate (Council Procedure Rule 15) for an ordinary or extraordinary meeting to be varied in view of the nature of the business specified in the Agenda. In these circumstances the Monitoring Officer in consultation with the Chairman of the Council and the Group Leaders will develop a suitable approach and procedure for the specific meeting. This will be clearly documented and sent to all Members of the Council in advance of the meeting.

## 26. **CANCELLATION OF MEETINGS**

*This rule applies to meetings of Council, Committees and Sub-Committees*

- 26.1 The Chief Executive, in consultation with the Chairman of the Council and all Group Leaders, may cancel a meeting, where there is no business to transact (ie no motions, questions, reports or recommendations).
- 26.2 The Chief Executive, in consultation with the Chairman of the Council, may cancel or postpone a meeting of the Council, when an emergency or external forces make the holding of the meeting impossible or particularly difficult (eg bomb scare, snow, fog, ice, interruption of the power supply).

## 27. **APPLICATIONS TO COMMITTEES AND SUB-COMMITTEES**

*This rule applies to Committees and Sub-Committees only.*

- 27.1 All of the Council Rules of Procedure apply to meetings of full Council. Only Rules which are expressly specified as applying to meetings of committees and sub-committees apply to meetings of Committees and Sub-Committees; save that the
- 27.2 None of the rules apply to meetings of the executive.

# Access to Information Procedure Rules

## 1. SCOPE

These rules apply to all meetings of the Council and its committees and sub-committees, overview and scrutiny committees, area committees (if any), the Standards Committee and regulatory committees and public-meetings of the executive and its committees and sub-committees (together called meetings).

## 2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

## 3. RIGHTS TO ATTEND MEETINGS

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

## 4. RIGHTS TO REPORT MEETINGS

While a meeting is open to the public any person is permitted to report on the meeting. For these purposes report means filming, photographing or making audio recordings of proceedings at the meeting; using any other means for enabling persons not present to see or hear proceedings at the meeting as it takes place or later or reporting or providing commentary on proceedings at the meeting orally or in writing.

These rights are subject to the Openness of Local Government Bodies Regulations 2014 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## 45. NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting at the Council Offices, White Cliffs Business Park, Dover, Kent (the designated office).

## 5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

(a) 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 days before the meeting.

(b) Where the meeting is convened at shorter notice than set out in Rule 3 (notice of meetings), copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

(c) If an item is added to the agenda, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are

prepared after the summons or agenda has been sent out the Head of Paid Service shall make each such report available to the public as soon as the report is completed and sent to Councillors.

- (db) Where reports are prepared after the agenda has been issued, the designated officer shall make each such report available to Councillors and members of the public as soon as the report is completed.

## **67. SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item

to any person on payment of a charge for postage and any other costs. All relevant documentation will be available from the Council's website free of charge.

## **78. ACCESS TO MINUTES ETC AFTER THE MEETING**

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

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, 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.

## **89. BACKGROUND PAPERS**

### **89.1 List of background papers**

The proper officer will set out in every report 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 10) and in respect of executive reports, the advice of a political adviser.

## **89.2 Public inspection of background papers**

The Council [at its offices and on its website](#) 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.

## **910. SUMMARY OF PUBLIC'S RIGHTS**

[Article 3 of this Constitution in conjunction with these Rules is the written summary of the public's rights to attend meetings and to inspect and copy documents](#) ~~A written summary of the public's rights to attend meetings and to inspect and copy documents~~ [These documents are ~~must be kept at and~~ available to the public at the Council Offices, White Cliffs Business Park, Dover ~~and on the Council's website.~~](#)

## **101. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

In applying the access to information rules, the Council and the executive will take account of the presumption in favour of openness. Where only part of a report contains confidential or exempt information, and it is practicable to do so, the proper officer should exclude only that part of the report from public access.

### **101.1 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.

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

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.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **110-3 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.

### **101.4 Meaning of exempt information**

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

Category	Condition
1. Information relating to any individual.	Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual.	Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p><a href="#"><u>“Financial or business affairs” includes contemplated as well as past or current activities</u></a></p>	<p>Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>Information within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under –</p> <p>(a) the Companies Acts <del>1985</del><a href="#"><u>(as defined in Section 2 of the Companies Act 2006)</u></a>;</p> <p>(b) the Friendly Societies Act 1974;</p> <p>(c) the Friendly Societies Act 1992;</p> <p>(d) the Industrial and Provident Societies Acts 1965 to 1978;</p> <p>(e) the Building Societies Act 1986 or</p> <p>(f) the Charities Act 1993.</p> <p>Information is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising	Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing

Category	Condition
between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	the information.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
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.	Provided that information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
<del>7A. Information which is subject to any obligation of confidentiality — (Regards must be had to any Statutory Guidance issued by the Standards Board [RB30])</del>	
<del>7B. Information which relates in any way to matters concerning national security — (Regards must be had to any Statutory Guidance issued by the Standards Board)</del>	
<del>7C. Information presented to a Standards Committee, or to a Sub-Committee of a Standards Committee, set up to consider any matter under Regulations 13 or 16-20 of the Standards Committee (England) Regulation 2008, or referred under Section 58(1)(c) of the Local Government Act 2000 — (Regards must be had to any Statutory</del>	

Category	Condition
<i>Guidance issued by the Standards Board)</i>	

Provided that in the case of information falling within paragraphs 1-7 only information shall only be exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

~~Paragraphs 7A, 7B and 7C apply to meetings of the Standards Committee only and, even then, only in prescribed circumstances.~~

**142. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

**123. APPLICATION OF RULES TO THE EXECUTIVE**

Only Rules 14–23 apply to the Leader of the Council and the executive (or one of its committees). If the Leader, executive or its committees meet to take a key decision then it must ~~also~~ comply with Rules 1–12 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution.

~~If the Leader or the executive (or one of its committees) meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1–11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.03 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.~~

**134. PROCEDURE BEFORE TAKING KEY DECISIONS PUBLICITY IN CONNECTION WITH KEY DECISIONS**

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless at least 28 clear days before it is made, a document has been published by making it available for inspection and on its website which states:

- (a) ~~a notice (called here a forward plan) has been published in connection with the matter in question;~~ that a key decision is to be made on behalf of the Council;
- (b) ~~at least 5 clear days have elapsed since the publication of the forward plan; and the matter in respect of which the decision is to be made~~
- (c) where the decision maker is an individual, that individual's name, and title if any and, where the decision maker is a decision making body, its name and a list of its members; ~~where the decision is to be taken at a meeting of the executive or its~~



~~committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).~~

~~(d) the date on which, or the period in 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; and~~

~~(h) the procedure for requesting details of those documents (if any) as they become available.~~

An item that is likely to contain confidential or exempt information as defined in Rule 11 should still be included in the document, but the confidential information must be omitted and the exempt information should be omitted.

#### ~~14. THE FORWARD PLAN~~

##### ~~14.1 Period of forward plan~~

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

##### ~~14.2 Contents of forward plan~~

~~The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the executive, a committee of the executive, individual members of the executive, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars insofar as the information is available or might reasonably be obtained:~~

~~(a) the matter in respect of which a decision is to be made;~~

~~(b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;~~

~~(c) the date on which, or the period within which, the decision will be taken;~~

~~(d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;~~

- ~~———— (e) ——— the means by which any such consultation is proposed to be undertaken;~~
- ~~———— (f) ——— the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and~~
- ~~———— (g) ——— a list of the documents submitted to the decision taker for consideration in relation to the matter.~~

~~The forward plan must be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one newspaper circulating in the area, stating:~~

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

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

## 15. GENERAL EXCEPTION

~~If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:~~

- ~~(a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;~~
- ~~(b) the proper officer has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;~~
- ~~(c) the proper officer has made copies of that notice available to the public at the offices of the Council; and~~
- ~~(d) at least 5 clear days have elapsed since the proper officer complied with (b) and (c).~~

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

Where the publication of the Notice of Forthcoming Key Decision is impractical, then subject to Rule 16 (Special Urgency), the decision may still be taken if:

- a) The decision must be taken by such a date that it is impracticable to defer the decision until the publicity requirements for key decisions can be met.
- b) The Proper Officer has notified the Chairman of the relevant overview and scrutiny committee, or, there is no such person each member of the relevant Overview and Scrutiny Committee by notice in writing, of the matter on which the decision is to be made.
- c) The Proper Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website;
- d) At least five clear working days have elapsed since the Proper Officer complied with (b) and (c).

## 16. CASES OF SPECIAL URGENCY

16.1—If by virtue of the date by which a decision must be taken Rule 155 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the chairman of the Council, or in his/her absence the vice-chairman will be required suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred the decision maker must make available at the offices of the Council and on its website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

## 17. PRIVATE MEETINGS OF THE EXECUTIVE

17.1 The Cabinet or its committees may subject to rule 15.2 only hold a meeting in private (in whole or part) if notices are made available at the offices of the Council and on its website:

- a) At least 28 clear days prior to the meeting of its intention to hold a private meeting containing a statement of reasons for the meeting to be held in private;
- b) At least 5 working days prior to the meeting of its intention to hold the meeting in private containing a statement of reasons or the meeting to be held in private, details of any representations received by the decision making body about why the meeting should be open to the public and a statement of its response to any such representation.

17.2 If by virtue of the date by which a meeting must be taken Rule 17.1 cannot be followed, then the meeting can only be held in private if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the relevant overview and Scrutiny Committee that the taking of the decision is urgent and cannot reasonably be deferred. In the absence of the Chairman of the relevant overview and Scrutiny Committee the agreement of the Chairman of the Council will be required. In the absence of both the Chairman of the relevant overview and Scrutiny Committee and the Chairman of the Council , the agreement of the Vice-Chairman of the Council will be required.

17.3 As soon as reasonably practicable after the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred the decision maker must make available at the offices of the council and on its website a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred.

\* A Private Meeting of the Executive is a meeting or part of a meeting of the Executive during which the public are excluded in accordance with these rules.

## 178. REPORT TO COUNCIL

### 178.1 When an overview and scrutiny committee can require a report

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the ~~forward plan~~notice of forthcoming key decisions; or

- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the chairman/vice-chairman of the Council under Rule 167;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the proper officer, who shall require such a report on behalf of the committee when so requested by the chairman, spokesperson or any 3 non-executive members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

### 178.2 Executive's report to Council

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

### 178.3 Quarterly reports on special urgency decisions

The Leader of the Council will submit annually a report to Council on the executive decision taken in the circumstances set out in Rule 17 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

~~A report shall be submitted to the next ordinary meeting of the Council on an executive decision taken in the circumstances set out in Rule 16 (special urgency).~~

### 189. RECORD OF DECISIONS

As soon as reasonably practicable, aAfter any meeting of the executive or any of its committees, whether held in public or private, the ~~p~~Proper ~~e~~Officer or, where the Proper Officer or his/her representative is not~~no~~ officer was present, the person presiding at the meeting, will ensure that a written statement is produced in respect of ~~produce a record of~~ every decision made at that meeting which must include the following information:~~taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.~~

- (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 that meeting at which the decision was made;
- (d) a record of any conflict of interest relating too the matter decided which is declared by any member of the decision making body which made the decision; and

- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Head of Paid Service.

### **19.2 Record of individual decision by a member 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 a written statement of that executive decision which must include the following:

- (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 that meeting at which the decision was made;
- (d) a record of any conflict of interest relating too the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Head of Paid Service.

### **19.3 Record of an individual Executive decision by an officer**

As soon as reasonably practicable after an officer has made an executive decision to which this Rule applies, the officer must produce 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 decision making body at that meeting at which the decision was made;
- (d) a record of any conflict of interest relating too the matter decided which is declared by any member of the decision making body which made the decision; and
- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Head of Paid Service.

19.4 Rule 19.3 applies to decisions made by an individual officer which would otherwise have been taken by the an **executive** decision making body but has been delegated to an officer either:-

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:-
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual;
  - (iii) award a contract or incur expenditure which, in either case, materially affects the council's financial position.

or where otherwise, in the opinion of the officer concerned, the decision is such that it is in the public interest that Rule 18.4 should apply.

#### **19.5 Record of Non-Executive Decision**

As soon as reasonably practicable after an officer has made an non-executive decision to which this Rule applies, the officer must produce a written statement which must include:

- (a) The date on which the decision was taken;
- (b) A record of the decision taken along with the reasons for the decision;
- (c) Details of alternative options, if any, considered and rejected; and
- (d) Where the decision is taken under a specific express authorisation the names of any member who has declared a conflict of interest in relation to the decision.

19.6 Rule 19.5 applies to decisions made by an individual officer which would otherwise have been taken by the Council, a Committee or Sub-Committee of the Council or a Joint Committee in which the Council participates but has been delegated to an officer either:-

- (a) under a specific express authorisation; or
- (b) under a general authorisation to officers to take such decisions and, the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual;
  - (iii) award a contract or incur expenditure which, in either case, materially affects the council's financial position.

19.7 The requirements of Rule 19.5 will be taken as satisfied where, in respect of a decision, a written record containing the information referred to in sub-paragraphs (a) and (b) of Rule 19.5 is already required to be produced in accordance with a statutory requirement.

### **20. INSPECTION OF DOCUMENTS FOLLOWING EXECUTIVE DECISIONS**

20.1 After a private meeting or a public meeting of a decision making body at which an executive decision has been made, after an individual Councillor ~~or officer~~ has made an executive decision ~~or after an officer has made a key decision~~, the proper officer shall ensure that a copy of:

- a) Any records prepared in accordance Rule 17; and
- b) any report considered at the meeting or, as the case may be, considered by the individual member or officer and relevant to a decision recorded in accordance with regulations Rule 17 or, where only part of the report is relevant to such a decision, that part, shall be available for inspection by members of the public, as

soon as is reasonably practicable, at the offices of **Dover** District Council and on the Council's website.

20.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection as detailed in 17.1 above those documents shall be supplied for the benefit of the newspaper on payment of postage, copying or other necessary charge for transmission.

1920.3 Nothing in these rules authorises or requires the Council to disclose to the public or make available for public inspection any document or part of a document if in the opinion of the Proper Officer, that document or part of a document contains or is likely to contain confidential information or exempt information.

#### ~~19. EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS~~

~~The executive will decide whether meetings relating to matters which are not key decisions will be held in public or private. However, the Council supports the principles of openness and accountability and the working practice will be to hold all meetings of the executive in public (whether or not they involve key decisions) (unless Rule 10 applies).~~

#### ~~20. NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE~~

~~The proper officer shall give at least 14 days notice to all members of the Council of future dates for meetings of the Cabinet and its Committees.~~

~~Members of the executive shall be entitled to receive five clear days notice of any meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.~~

~~All other members of the Council shall receive copies of the agenda and reports for meetings of the executive (including any exempt/confidential reports).~~

#### 21. ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE

##### **Executive Members**

- (a) All members of the executive will be served notice of all private meetings of committees of the executive, whether or not they are members of that committee.
- (b) All members of the executive are entitled to attend a private meeting of any committee of the executive and speak.

##### **Overview and Scrutiny Committee Members**

- (a) Notice of private meetings of the executive and its committees will be served on the chairs of all overview and scrutiny committees and sub-committees, at the same time as notice is served on members of the executive. Where an overview and scrutiny committee does not have a chair, the notice will be served on all the members of that committee.



- (b) Where a matter under consideration at a private meeting of the executive, or a committee of it, is within the remit of an overview and scrutiny committee/sub-committee, the chair of that committee or in his/her absence the vice-chair may attend that private meeting with the consent of the person presiding, and speak.

## **Officers**

- (a) The head of the paid service, the section 151 officer and the monitoring officer, and their nominees are entitled to attend any meeting of the executive and its committees. The executive may not meet unless the proper officer has been given reasonable notice that a meeting is to take place.
- (b) A private executive meeting may only take place in the presence of the proper officer or his/her nominee with responsibility for recording and publicising the decisions.

~~NB Rules 18-21 do not apply to meetings of the Strategic Management Team which are convened solely for the purposes of briefings by officers and cannot make executive decisions.~~

## ~~22. DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE~~

### ~~22.1 Reports intended to be taken into account~~

~~Where an individual member of the executive receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.~~

### ~~22.2 Provision of copies of reports to overview and scrutiny committees~~

~~On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of every relevant overview and scrutiny committee as soon as reasonably practicable, and make it publicly available at the same time.~~

### ~~22.3 Record of individual decision~~

~~As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. 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 executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.~~

## **232. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS**

### **232.1 Rights to copies**

Subject to Rule 231.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive or its committees and which contains material relating to

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

### **232.2 Limit on rights**

An overview and scrutiny committee will not be entitled to:

- ~~(a) any document that is in draft form;~~
- (ba) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (be) the advice of a political adviser.

### **22.3 Timescales**

Any copy of a document that is to be made available under Rule 21.1 must be provided by the Executive as soon as reasonably practicable and in any case no later than 10 clear days after the Executive receives the request.

## **23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **23.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1 to 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser.

### **23.2 Timescales**

Any document that is to be made available for inspection under Rule 22.1 must be available for inspection when the meeting concludes, or where an executive decision is made by an individual member or officer immediately after the decision has been made and in any event, within 24 hours of the conclusion of the meeting or the decision being made, as the case may be.

### **23.3 Material relating to key decisions**

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

### **23.4 Nature of rights**

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

*References:* Sections 100A–H and schedule 12A Local Government Act 1972  
Section 22 of The Local Government Act 2000  
Chapter 7, DETR Guidance  
Local Authorities (Executive Arrangements) (Access to Information)  
(England) Regulations 2000  
Local Authorities (Executive Arrangements) (Meetings and Access to  
Information) (England) Regulations 2012  
Openness of Local Government Bodies Regulations 2014

## Budget and Policy Framework Procedure Rules

### 1. 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 executive to implement it.

### 2. Process for developing the framework

Subject to paragraph (j) below, the process by which the budget and policy framework shall be developed is:

~~(a) By the first week in November and before the Corporate Plan, Medium Term Financial Strategy and budget needs to be adopted, the executive will publish initial proposals and a broad timetable for the budget and policy framework, via a Cabinet report consistent with the detail in paragraph 2(b) to 2(j) having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Any representations made to the executive shall be considered when reviewing the initial proposals.~~

~~(ba)~~ By the end of ~~December~~January, the executive will have consulted on its budget proposals as it considers appropriate and publish its detailed Corporate Plan, approve the draft Budget and Medium Term Financial StrategyPlan, and budget proposals. The overview and scrutiny committees shall determine whether it wishes to scrutinise the detailed Corporate Plan, draft Budget and Medium Term Financial StrategyPlan and budget proposals. The overview and scrutiny committee shall report to the Executive the outcome of its deliberations.

~~(cb)~~ Having considered the report of the overview and scrutiny committee, the executive, if it considers it appropriate, may amend its proposals before submitting them to the February council meeting for consideration and adoption. It will also report to Council on how it has taken into account any recommendations from the overview and scrutiny committee.

~~(dc)~~ The Council will consider the proposals of the executive and may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executive's proposals and any report from any relevant overview and scrutiny committee. The council tax levy requires receipt of precepts from precepting authorities and may be submitted to the March council meeting.

~~(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 executive's proposals without amendment) or (if the executive's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the Leader objects to it in that period.~~

- (fd) If the Leader objects to the decision of the Council, he/she shall give written notice to the proper officer to that effect during the first working day after the Council's decision 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.
- (ge) The Council meeting must take place within 407 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) For virements please see paragraph 5 below. Any other changes to the budget and policy framework are reserved to the Council.
- (j) Any of the time periods set out within the process for developing the Budget and Policy Framework contained herein may be varied by agreement between the Executive and the Scrutiny (Policy and Performance) Committee provided that proper regard is had to allowing a reasonable period of time at each stage of the process to enable full and proper consultation and informed recommendations and decision-making.

### 3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of paragraph 5 (virement) the executive, committees of the executive, individual members of the executive 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 executive, committees of the executive, individual members of the executive 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. Urgent decisions outside the Budget or Policy Framework

- (a) The executive, a committee of the executive, an individual member of the executive 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 chair of a relevant overview and scrutiny committee 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 chair of the relevant overview and scrutiny committees' 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 chair of a relevant overview and scrutiny committee the consent of the chairman of the Council and in the absence of both the vice-chairman of the Council 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. **Virement**

The policy on virements is set out in Financial Procedure Rules, Appendix 2.

## 6. **In-year changes to Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the executive, a committee of the executive, an individual member of the executive or officers, area committees or joint arrangements discharging executive functions must be in line with it. No changes to any policy and strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

## 7. **Call-in of decisions outside the Budget or Policy Framework**

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision 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 executive, the monitoring officer's report and/or chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive 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 Section 151 Officer conclude that the decision was a departure, and to the overview and scrutiny committee 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 overview and scrutiny committee 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 committee. 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 executive 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 execution 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 executive to reconsider the matter in accordance with the advice of either the monitoring officer/section 151 officer.

*References: Chapter 2, DETR Guidance  
The Local Authorities (Functions and Responsibilities) (England)  
Regulations 2000*

## **Leader and Executive Procedure Rules**

### **1. HOW DOES THE EXECUTIVE OPERATE?**

#### **1.1 Who may make executive decisions?**

The executive comprises the Leader of the Council and up to nine other members. The arrangements for the discharge of executive functions should be set out in the executive arrangements adopted by the Council. It is for the Leader to decide how they are to be exercised. The arrangements or the Leader may provide for executive functions to be discharged by:

- (i) her/himself;
- (ii) the executive as a whole;
- (iii) a committee of the executive;
- (iv) an individual member of the executive;
- (v) an officer;
- (vi) an area committee;
- (vii) joint arrangements; or
- (viii) another local authority.

#### **1.2 Delegation by the Leader**

At the annual meeting of the Council, and following her/his election (or re-election), the Leader will present to the Council a written report of delegations to be made by him/her for inclusion in the Council's Schemes of Delegation at Part 3 to the Constitution.

The report presented by the Leader will contain the following information about executive functions in relation to the coming year:

- (i) the names of the people appointed to the executive by the Leader;
- (ii) the extent of any authority to be delegated to executive members individually, including details of any limitation on their authority;
- (iii) the terms of reference and constitution of any executive committees the Leader will appoint and the names of executive members to be 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 executive members to be appointed to any joint committee for the coming year; and



- (v) 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.

### **1.3 Sub-delegation of executive functions**

- (a) Where the Leader of the Council chooses to delegate responsibilities to the executive, a committee of the executive or an individual member of the executive, unless s/he decides otherwise then they may delegate further to an executive committee, area committee, joint arrangements or an officer.
- (b) 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 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 executive 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 executive 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 executive, 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 Executive meetings – when and where?**

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

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

Meetings of the executive shall be public except as permitted under Rule 10 of the Access to Information Procedure Rules.

## 1.8 **Quorum**

The quorum for a meeting of the executive shall be 4. The quorum for a meeting of a committee of the executive shall be 3.

## 1.9 **Substitutes**

Members of Executive Committees may appoint substitutes from amongst the Cabinet only. All other rules regarding substitutions apply in accordance with Council Procedure Rule 4.

## 1.10 **How are decisions to be taken by the executive?**

- (a) Executive decisions which have been allocated or delegated to the executive 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 allocated or delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

## 2. **HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### 2.1 **Who presides?**

If the Leader is present he/she will preside. In his/her absence, the Deputy Leader shall preside. In the absence of both, it shall be a member of the executive appointed by those present.

### 2.2 **Who may attend?**

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

### 2.3 **What business?**

At each meeting of the executive the following business will be conducted:

- (i) consideration of the record of decisions of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

- (iv) consideration of reports from overview and scrutiny committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

## 2.4 **Consultation**

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and 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.

## 2.5 **Who can put items on the executive agenda?**

The Leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, 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.

Any member of the executive may require the proper officer to make sure that an item is placed on the agenda of the next available meeting of the executive for consideration. If he/she receives such a request the proper officer will comply.

The monitoring officer and/or the section 151 officer may include an item for consideration on the agenda of an executive 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, section 151 officer and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive 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.

## 2.6 **Advisory Groups**

The Cabinet may appoint such cross party advisory groups as it wishes in order to assist in the work of the executive. Such groups may be appointed from time to time in order to advise the Cabinet on one or more specific projects or to advise on matters relating to a particular executive function or activity eg grants and capital expenditure. Guidelines for setting up Advisory Groups are set out in Part 3 (Section 4) of the Constitution.

## 2.7 **Strategic Management Team**

- (a) Article 7 includes a description of the Strategic Management Team.

- (b) The purpose of the Strategic Management Team is to enable regular and scheduled briefings to take place between members of the executive and Corporate Management Team outside of formal meetings of the executive.
- (c) The role of Strategic Management Team is therefore to
- facilitate briefings or discussions on particular issues or enable clarification of matters between the Leader and Cabinet and Corporate Management Team
  - assist the Leader in settling the Forward Plan
  - assist the Leader in settling agendas for meetings of the Cabinet.
- (d) Strategic Management Team is not able to make collective executive decisions. Such decisions can only be made by Cabinet or, where appointed, a committee of Cabinet.
- (e) Meetings of Strategic Management team will not be held in public. However, Regulation 7 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 provides that if a meeting of members of the executive with officers present wishes to consider a key decision which the Forward Plan indicates will be taken by the executive within the next 28 days such a meeting can only take place in public.

*References: Chapters 4–7, DETR Guidance*

## Overview and Scrutiny Procedure Rules

### 1. **What will be the number and arrangements for overview and scrutiny committees?**

The Council will appoint 2 standing scrutiny committees with terms of reference as set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees.

Overview and scrutiny committees or sub-committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

The arrangements for the co-ordination of overview and scrutiny will be undertaken through the Scrutiny (Policy and Performance) Committee.

For the purposes of Section 19 of the Police and Justice Act 2006, the Scrutiny (Community and Regeneration) Committee shall be designated as the Crime and Disorder Committee.

### 2. **Who may sit on overview and scrutiny committees?**

All councillors except (a) members of the Executive and (b) the Chairman and Vice-Chairman of the Council may be members of an overview and scrutiny committee or serve as substitutes on an overview and scrutiny committee. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

### 3. **Co-optees**

(a) Each overview and scrutiny committee or sub-committee (or working group) shall be entitled to

- (i) appoint up to 4 people who are not members of the Council as non-voting co-optees;
- (ii) appoint up to 4 additional members of the Council (who shall be eligible to serve as voting co-optees) 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 committee, sub-committee (or working group).

(b) In relation to crime and disorder matters, the designated overview and scrutiny committee shall not be entitled to co-opt:

- (i) Any individual who was wholly or partly responsible (or otherwise directly involved) in the decision or action for which the Committee is exercising its powers;
- (ii) Any member of the Council's Executive; or

- (iii) Anyone who is NOT an officer of a responsible authority or co-operating person/body.

References: Police and Justice Act 2006

Local Government and Public Involvement in Health Act 2007

- (c) The political balance rules shall be maintained if additional voting members are appointed.
- (d) The terms of appointment of each co-optee shall specify whether he/she is appointed for a single issue, single meeting or on a permanent or semi-permanent basis.
- (e) For the avoidance of doubt, the number of external co-optees serving on an overview and scrutiny committee or sub-committee (or working group) at any time shall not exceed 4; and the number of additional member co-optees serving on an overview and scrutiny committee or sub-committee (or working group) at any time shall not exceed 4.
- (f) In the event that the overview and scrutiny committee designated as the crime and disorder committee decides to co-opt someone from a responsible authority or co-operating person/body, they must be consulted as to the most suitable person before co-opting any additional member. The definition of a 'responsible authority' is those bodies which are responsible for crime and disorder strategies.
- (g) For the avoidance of doubt, the number of external co-optees serving on an overview and scrutiny committee or sub-committee (or working group) at any time shall not exceed 4; and the number of additional member co-optees serving on an overview and scrutiny committee or sub-committee (or working group) at any time shall not exceed 4. The total number of co-optees shall not exceed the total number of permanent members on the committee or sub-committee (or working group).
- (h) A co-optee's membership may be withdrawn at any time by the appointing committee.

#### 4. **Meetings of the overview and scrutiny committee**

There shall be 11 ordinary meetings in total of the overview and scrutiny committees in each year and no fewer than two meetings of the overview and scrutiny committee designated as the crime and disorder committee in each twelve months. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee meeting may be called by the chairman of the relevant overview and scrutiny committee, by any 3 members of the committee or by the proper officer if he/she considers it necessary or appropriate.

5. **Quorum**

The quorum for an overview and scrutiny committee shall be as set out in Rule 8 of the Council Procedure Rules in Part 4 of this Constitution. The quorum for a sub-committee shall be one half of the membership provided that a quorum shall never be less than two.

6. **Who chairs overview and scrutiny committee meetings?**

Subject to the Council Rules of Procedure, the overview and scrutiny committees/sub-committees will be chaired by a councillor who is not a member of the largest political group on the Council, unless there is no such person serving on the committee/sub-committee. In such cases, the committee/sub-committee may appoint such person to chair it from amongst the councillors sitting on it.

7. **Work programme**

The overview and scrutiny committees/sub-committees shall (subject to any Guidance/Protocol for setting Work Programmes issued by the Council from time to time) be responsible for setting their own work programmes and reporting to the Council thereon and in doing so they shall take into account the wishes of members on that committee who are not members of the largest political group on the Council.

In respect of each topic review contained in the Work Programme of each Scrutiny Committee, regular briefing meetings shall be held between the relevant Portfolio Holder(s), the Chairman and Controlling Group Spokesperson of the Scrutiny Committee (or sub-committee if appropriate) and the advisory officer for the review.

8. **Major Reviews**

All major reviews will be supported by a project plan developed in consultation with the appropriate agenda officer or an officer designated by them and a realistic assessment should be made at the outset of the resources required to support the review and the availability of them.

9. **Minor Review**

All minor reviews will be assessed on a case by case basis to determine whether a project brief will be required. The relevant scrutiny committee in conjunction with Democratic Support will co-ordinate all aspects of any minor review undertaken and be empowered to prioritise workload and use of resources.

10. **Agenda Setting**

- (1) (a) The Chairman, with the assistance of Officer Support, shall be responsible for setting the Agenda.
- (b) For each item of scrutiny contained in the Agenda, a Chairman's Meeting may be held to identify a list of Key Questions or Key Areas for scrutiny; these shall be set out in the Agenda. (See Appendix for the circumstances in which a key questions meeting shall be held.)

- (c) At meetings with Officer Support eg to settle the Agenda or the Key Questions/Key Areas, the Chairman shall invite the Controlling Group Spokesperson; the Chairman may also invite other members of the Committee to attend a Key Questions Meeting.
  - (d) The Chairman may hold a Scrutiny Committee pre-meeting (at which all Members of the Scrutiny Committee are invited) in order to verify that all matters of concern have been covered by the Key Questions/Key Areas.
- (2) The Chairman and Controlling Group Spokesperson for each committee, in consultation with the relevant Head of Service, shall develop a programme of meetings (or other arrangements) to deal with agenda setting, pre-committee briefings and work programme monitoring.

## 11. **Agenda items**

Subject to the Protocol set out below:

- (a) Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. If, following the observance of the Protocol, the member wishes the item to be included on the agenda, the proper officer will ensure that it is included on the next available agenda.
- (b) Any member of the Council who is not a member of the overview and scrutiny committee may give written notice to the proper officer that they wish an item relating to his or her ward and which is relevant to the functions of the committee to be included on the agenda of an overview and scrutiny committee. If, following the observance of the Councillor Call for Action Protocol, the members wish the item to be included on the agenda, the Proper Officer shall make arrangements for the matter to be included on the agenda at the next available meeting of the overview and scrutiny committee/sub-committee.

### Protocol on Submission of Agenda Items for Scrutiny

- (1) Member wishes to bring item/issue to Scrutiny.
- (2) Detailed correspondence (e-mail/letter) sent to Democratic Support Officer to include the following:
  - Background/History of issue
  - Explanation of issue
  - Reason for being brought to Scrutiny
  - Desired outcome from scrutinising the issue
  - Officer contact (if known)
- (3) Democratic Support Officer to pass information to relevant Officer(s) and request contact with Member.



- (4) Discussion between Member and Officer to determine whether it is the right time for the item to come to Scrutiny (reports may be pending, issue held up due to involvement with outside bodies etc) and what benefits could be achieved by subjecting the item to scrutiny.
- (5) Democratic Support Officer to be kept informed of discussions and pass information to the Chairman of the Committee.
- (6) Member to make informed decision whether they wish item to be placed on agenda, taking into account discussions with relevant Officer(s).

The overview and scrutiny committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the executive to review particular areas of Council activity. Where they do so, the overview and scrutiny committee shall report their findings and any recommendations back to the executive and/or Council. The Council and/or the executive shall consider the report of the overview and scrutiny committee within one month of receiving it.

## 12. **Policy review and development**

- (a) The role of the overview and scrutiny committees 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, overview and scrutiny committee or sub-committees may make proposals to the executive for developments insofar as they relate to matters within their terms of reference.
- (c) Overview and scrutiny committees may hold enquiries 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.

## 13. **Reports from overview and scrutiny committees**

- (a) Once it has formed recommendations on proposals for development, the overview and scrutiny committee will prepare a formal report and submit it to the proper officer for consideration by the executive (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) If an overview and scrutiny committee cannot agree on one single final report to the Council or executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report subject to the following conditions:

- (i) minority reports must be determined at the Overview and Scrutiny Committee;
  - (ii) minority reports must be supported by a minimum of two members (a proposer and a seconder) and recorded in the minutes of the meeting.
- (c) The Council or executive shall consider the report of the overview and scrutiny committee within one month of it being submitted to the proper officer.

**14. Making sure that overview and scrutiny reports are considered by the executive**

- (a) Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it to either or both the executive and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the proper officer refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The executive will have 4 weeks in which to respond to the overview and scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an overview and scrutiny committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the executive to the overview and scrutiny proposals.
- (b) The agenda for executive meetings shall include an item entitled 'Issues arising from overview and scrutiny'. The reports of overview and scrutiny committees referred to the executive shall be included at this point in the agenda (unless they have been considered in the context of the executive's deliberations on a substantive item on the agenda) within 4 weeks of the overview and scrutiny committee completing its report/recommendations.
- (c) In considering a report from Overview and Scrutiny, the Cabinet must either accept, reject or amend the recommendations and where it rejects a recommendation it must give reasons for it.
- (d) Where an overview and scrutiny committee or sub-committee prepares a report for consideration by the executive in relation to a matter where an individual member has delegated decision making power, then the overview and scrutiny committee will submit a copy of their report to that individual for consideration. At the time of doing so, the overview and scrutiny committee shall serve a copy on the proper officer and the Leader. If the member with delegated decision making power does not accept the recommendations of the overview and scrutiny committee then he/she must then refer the matter to the next available meeting of the executive for debate before exercising his/her decision making power and responding to the report in writing to the overview and scrutiny committee. The executive member to whom the decision making power has been delegated will respond to the overview and scrutiny committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.

- (e) Overview and scrutiny committees will in any event have access to the executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

**15. Rights of overview and scrutiny committee members to documents**

- (a) In addition to their rights as councillors, members of overview and scrutiny committees 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.
- (b) Nothing in this paragraph prevents more detailed liaison between the executive and overview and scrutiny committee as appropriate depending on the particular matter under consideration.
- (c) The overview and scrutiny committee designated as the crime and disorder committee has rights of access to information relevant to the exercise of its functions from responsible authorities or the co-operating persons/bodies in accordance with the provisions of the agreed Councillor Call for Action protocol.

**16. Members and officers giving account**

- (a) Any overview and scrutiny committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the head of paid service and/or any chief officer or senior manager 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 committee or sub-committee under this provision, the chair of that committee or sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving reasonable notice (having regard to the protocol set out in Rule 18) 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 committee. Where the account to be given to the committee 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, the member or officer is unable to attend on the required date, then the overview and scrutiny committee or sub-committee shall in consultation with the member or officer arrange an alternative date for attendance.
- (d) Regard shall be had to Paragraph 50 of the Protocol on Member/Officer Relations and to the Protocol set out in Rule 18 below).
- (e) An overview and scrutiny committee may require the attendance of any member to answer questions in regard to the exercise of powers granted under Section 236 of the Local Government and Public Involvement in Health Act 2007.”

**17. Attendance by others**

An overview and scrutiny committee 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. Regard shall be had to the Protocol set out in Rule 18 below.

The overview and scrutiny committee designated as the crime and disorder committee may require the attendance before it of an officer or employee of a responsible authority or co-operating person or body, in order to answer questions or otherwise provide information in accordance with the provisions of the agreed Councillor Call for Action protocol.

**18. Call-in**

- (a) When a decision is made by the Leader of the Council, executive, an individual member of the executive or a committee of the executive, or a Councillor with delegated Executive authority, or a key decision is made by an officer with delegated authority from the executive, or an area committee 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. Chairs of all overview and scrutiny committees (and all other members of the Council) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- (b) 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 at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
- (c) By 10.00 am on the fourth working day after publication of the decision, the proper officer shall call-in a decision for scrutiny by the Scrutiny (Policy and Performance) Committee if so requested in writing by the chairman or controlling group spokesperson of the Scrutiny (Policy and Performance) Committee or, in their absence, the Vice-Chairman and Deputy Controlling Group Spokesperson, or by any three non executive members of the Council, and shall then notify the decision-taker of the call-in. A meeting of the Scrutiny (Policy and Performance) Committee shall then be held within 15 working days of the decision to call-in. Reasons for calling-in an executive decision should be given and recorded in the agenda.

- (d) If, having considered the decision, the Scrutiny (Policy and Performance) Committee (or the Scrutiny (Community and Regeneration) Committee to which the matter may have been referred by the Scrutiny (Policy and Performance) Committee) 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 or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
- (e) If following an objection to the decision, the Scrutiny (Policy and Performance) Committee (or the Scrutiny (Community and Regeneration) Committee to which the matter may have been referred by the Scrutiny (Policy and Performance) Committee) does not meet in the period set out 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 date of the overview and scrutiny meeting, or the expiry of that further 10 working day period, whichever is the earlier.
- (f) If the matter was 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 in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive 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 body, together with 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. Where the decision was taken by the executive as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
- (g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (h) Where an executive decision has been taken by an area committee, then the right of call-in shall extend to any 5 members of another area committee if they are of the opinion that the decision made but not implemented will have an adverse effect on the area to which their committee relates. In such cases, those 5 members may request the proper officer to call-in the decision. He/she shall call a meeting of the Scrutiny (Policy and Performance) Committee on such a date as he/she may determine, where possible after consultation with the chairman of the committee, and in any case within 10 working days of the decision to call-in. All other provisions relating to call-in set out above shall apply.

## **GUIDELINES**

- (j) Call-in should only normally be exercised in exceptional circumstances; for example where the relevant chairman or controlling group spokesperson or non-

executive members are satisfied that the executive decision maker failed to make the decision in accordance with the principles set out in Article 13 (Decision Making).

- (k) To avoid the possibility of many emergency Council meetings, overview and scrutiny committees should only use the power to refer matters to the full Council if they consider that the decision is contrary to or not wholly in accordance with the Budget or Policy Framework.

### **CALL-IN AND URGENCY**

- (l) The call-in procedure set out above shall not apply where the decision being taken by the executive 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. 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-chair'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.
- (m) 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.

### **19. The party whip**

When considering any matter in respect of which a member of an overview and scrutiny committee 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 committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

### **20. Procedure Framework**

- (a) Overview and scrutiny committees and sub-committees 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 committee for a decision in relation to call-in of a decision;
  - (iv) responses of the executive to reports of the overview and scrutiny committee; and
  - (v) the business otherwise set out on the agenda for the meeting.

(b) Where the overview and scrutiny committee conducts investigations (eg with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following guidelines:

(i) Stages: There is a recommended four stage process for scrutiny investigations:

- Definition of the scope and methodology
- A research paper providing background information
- Documentation showing the extent of the investigation
- A final analysis

(ii) Determination of the date/time on which oral evidence is to be provided and the length of notice to be given to parties.

For those representing outside bodies a minimum of ten working days notice shall be given and for internal reviews involving Members and Officers a minimum of two clear working days notice shall be given. For topic reviews every effort will be made to determine a time/date which is convenient for the majority of persons/parties due to attend.

(iii) Expectations regarding the investigation and the level of courtesy and respect to be shown to witnesses.

(a) The investigation shall be conducted so as to maximise the efficiency of the investigation or analysis;

(b) The investigation shall be conducted fairly and in a focused and respectful manner and all members of the committee shall be given the opportunity to ask questions of attendees, and to contribute and speak; and

(c) Those assisting the committee by giving evidence shall be treated with respect and courtesy.

(iv) Provision for written evidence to be submitted.

Written evidence in support, or in place of, oral evidence by witnesses, will only be included within the Committee's (or sub-committee's) report where the witnesses consent has been obtained.

(v) Requirement to give appropriate notice to witnesses regarding the questions they are to be asked and the issues they are expected to respond to before the Committee.

For all reviews a minimum of two clear working days notice shall be given.

- (vi) Procedures for the validation of evidence by witnesses prior to its inclusion within the Committee's final report.

The witness should give prior consent for inclusion of any information attributed to him/her.

- (vii) Final Report: Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public; including the circulation of the final report to all parties that participated in the review.

(c) Officer Support

- (i) Scrutiny Committees will receive Officer Support as follows:

- Democratic Support Officer.
- second tier officers designated by the Corporate Management Team according to a particular major subject called for Scrutiny.

- (ii) Support services shall include:

- assistance with the compilation of and circulation of agendas.
- organisation of meetings – including procurement as necessary of
  - (i) members/officers/third parties invited to attend;
  - (ii) documents or other information required for the meeting.
- research/reports.
- advising on protocols/procedure.
- taking minutes/acting thereon.

- (iii) It is agreed that:

- Officer Support must remain neutral and owe a duty at all times to the whole Council.
- Officer Support will assist scrutiny as necessary in the delivery of its role to the Council.
- Council resources will not be used for any party political purposes.



- (d) The Chairman
  - (i) The Chairman of a Scrutiny Committee (or sub-committee) shall at all times use his/her own discretion and act in the interests of the Council and not of his/her political group.
  - (ii) The Chairman shall take a lead role in facilitating and co-ordinating scrutiny and in drawing up an annual programme of subjects for scrutiny.

(e) Training and Development

All Members of the Council shall be provided with relevant training and development in the scrutiny function.

**21. Matters within the remit of more than one overview and scrutiny committee**

Where the matter for consideration by an overview and scrutiny committee [sub-committee] also falls within the remit of the other overview and scrutiny [sub] committee, the decision as to which overview and scrutiny [sub] committee will consider it will be resolved by the Scrutiny (Policy and Performance) Committee.

In the case of cross cutting themes falling within the remit of more than one overview and scrutiny committee, it may be agreed that the matter shall be the subject of report from more than one overview and scrutiny committee, or a report shall be made by one overview and scrutiny committee but only after consultation with another overview and scrutiny committee.

**22. Public Petitions**

- (a) All petitions which members of the public wish to present to the Council shall be submitted to the Scrutiny (Policy and Performance) Committee in accordance with the following rules:-
  - (i) Any petition must be presented by a member of the public in person to the Scrutiny (Policy and Performance) Committee.
  - (ii) The petition must bear the signatures of at least 20 citizens of the District. A single list of names of 20 or more citizens or letters submitted on similar headed paper by 20 or more citizens addressing a common theme shall constitute a petition. In addition to a signature, the petitioners must also state their name, address and the date on which they signed the petition.
  - (iii) One of the persons who have validly signed the petition must be designated as the 'petition organiser'. The petition organiser is the designated person with whom the Council will deal in relation to the petition.
  - (iv) Should a petition be received from 20 or more citizens it shall be reported to the Scrutiny (Policy and Performance) Committee for information).
  - (v) The petition must be addressed to Dover District Council and relate:

- to a matter(s) in respect of which the Council exercises functions; and
- to a matter(s) which affects the inhabitants of the whole or a part of the District

and request the authority to either take, or cease to take, an action as described in the petition.

Petitions relating to highways are a function of KCC and outside the scope of the scheme. Petitions relating to planning and licensing will be submitted and considered through existing decision making procedures and are also outside the scope of the scheme.

(vi) The petition must not:

- relate to court or legal proceedings.
- disclose confidential or exempt information.
- be defamatory, frivolous or offensive.
- be about the same subject as an active petition or have substantially similar effect to a petition that has been made to the Council within the period of six months ending with the date on which the petition was considered by the Scrutiny (Policy and Performance) Committee.

(vii) A person wishing to present a petition to the Scrutiny (Policy and Performance) Committee must submit it in writing to the Head of Democratic Services explaining details of the petition.

(viii) The petition organiser will receive a written acknowledgement of a valid petition (referred to as an 'active petition' once accepted) within 20 clear days of its receipt. The acknowledgement will provide such information as the Council considers appropriate in respect of what the authority has done or proposes to do in response to the petition.

(ix) If a petition is deemed inadmissible, the petition organiser will be informed of the reasons for that decision.

(x) The petition organiser will be allowed to speak for 10 minutes at the Scrutiny (Policy and Performance) Committee in support of an active petition.

(b) After presentation of an active petition, the Scrutiny (Policy and Performance) Committee may select one or more of the following options:

- Consider the petition and agree to take no further action.

- Consider the petition and forward it to another Committee of the Council or person within the Council for consideration.
- Consider the petition and forward it to another body or organisation outside the Council for consideration and response.
- Invite the petition organisers to provide additional information to assist it in reaching a decision on the action to be taken in relation to the petition.
- Request a report or research in relation to the petition.
- Take any other action that it considers appropriate.

(c) The Scrutiny (Policy and Performance) Committee shall after considering an active petition at a scheduled meeting notify the petition organiser in writing of the steps the authority has taken or proposes to take in response to the petition and of the authority's reasons for doing so.

23. **Health Scrutiny**

Scrutiny of health issues shall be conducted in accordance with a protocol developed by Kent County Council and Borough/District Councils through the County.

24. **Councillor Call for Action**

The Councillor Call for Action function shall be conducted in accordance with the agreed protocol (Appendix 2).

25. **Public Speaking**

The Council has adopted a protocol for public speaking at meetings of the Scrutiny (Policy and Performance) Committee and Scrutiny (Community and Regeneration) Committee. This is set out in full in Appendix 3 of these procedure rules.

**KEY QUESTIONS PROTOCOL**

<b>No</b>	<b>Issue</b>	<b>Key Questions</b>
1	Major Changes to the Budget and Policy Framework.	A Key Questions Meeting will normally be held prior to the main meeting unless the relevant Chairman and Controlling Group Spokesperson agree that it is unnecessary.
2	Minor Changes to the Budget and Policy Framework.	A Key Question Meeting will not be held unless specifically requested by the relevant Chairman or Controlling Group Spokesperson.
3	Call-In of a Decision (made but not implemented) by the Cabinet.	A Key Question Meeting will not be held unless specifically requested by the relevant Chairman or Controlling Group Spokesperson.
4	Overview of a Topic within a Committee's Work Programme.	A Key Questions Meeting will normally be held prior to the main meeting unless the relevant Chairman and Controlling Group Spokesperson agree that it is unnecessary.
5	Referral of Item from Council to a Scrutiny Committee for Consideration and Report.	A Key Question Meeting will not be held unless specifically requested by the relevant Chairman or Controlling Group Spokesperson.
6	Report from an Officer to Committee.	A Key Question Meeting will not be held unless specifically requested by the relevant Chairman or Controlling Group Spokesperson.

- Notes: (1) The purpose of this protocol is to assist the Chairman and ensure that decisions regarding Key Questions Meetings are taken in consultation with the Chairman and Controlling Group Spokesperson of the relevant Scrutiny Committee. If either cannot be contacted, the decision may be taken in consultation with the Vice-Chairman or the Deputy Controlling Group Spokesperson as appropriate. If despite the best efforts of the Head of Democratic Services, it is not possible to obtain a response from representatives of both of the main political groups, a decision shall be taken in accordance with the presumptions identified in the table above.
- (2) If a Key Questions Meeting is not considered necessary, a briefing meeting may, as an alternative, be held immediately prior to the main meeting if this is agreed upon by the Chairman and the Controlling Group Spokesperson (or their deputies).

**COUNCILLOR CALL FOR ACTION PROTOCOL**

**INTRODUCTION**

1. This protocol has been drawn up based on the legislative requirements, government guidance and guidance issued by the Improvement and Development Agency and the Centre for Public Scrutiny.
2. This protocol applies in respect of Councillor Call for Action (CCfA) referrals from District Councillors exercised under Section 19 of the Police and Justice Act 2006 and Section 119 of the Local Government and Public Involvement in Health Act 2007, as incorporated into Section 21A of the Local Government Act 2000.
3. The Scrutiny (Community and Regeneration) Committee is the designated Overview and Scrutiny Committee for the purpose of CCfA referrals from Ward Councillors relating to 'crime and disorder' matters, while the Scrutiny (Policy and Performance) Committee is the designated Overview and Scrutiny Committee for the purpose of CCfA referrals from ward councillors relating to 'local government' matters.
4. The Scrutiny (Community and Regeneration) Committee is designated as the Crime and Disorder Committee under Section 19 of the Police and Justice Act 2009.
5. The definition of the 'area represented by the member' is the Ward for which a District Councillor is elected.<sup>a</sup>

**WHAT IS A COUNCILLOR CALL FOR ACTION?**

6. The Councillor Call for Action provides a process by which a Ward Councillor can act on behalf of their constituents to resolve issues of local concern in respect of local government and crime and disorder matters that are beyond their capability to resolve and where all other methods of resolution have been exhausted.
7. A CCfA is not a guarantee that the designated Overview and Scrutiny Committee will resolve the issue referred to it. It is however, recognition that the issue is significant enough to merit the time and resources required to attempt to resolve the matter.

**PRINCIPLES OF THE COUNCILLOR CALL FOR ACTION**

8. The operation of CCfA at Dover District Council is based on the following key principles:
  - Transparency in decision-making, and the involvement of scrutiny in the decision-making process at some level.
  - A willingness to identify mistakes and shortcomings, and recognition of the need to resolve problems through discussion.
  - An understanding of the role that scrutiny can play to help a Council to improve its services.

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<sup>a</sup> As per definition of electoral area under Section 203(1) of Representation of the People Act 1983

- An understanding and a wish to bolster and support the role that Ward Councillors play as champions and leaders of their communities.

## **WHAT MATTERS CONSTITUTE A COUNCILLOR CALL FOR ACTION?**

9. A CCfA for a local government matter must:
  - (a) Relate to the discharge of any function of the Council; or
  - (b) Relate to an issue that directly affects all or part of the electoral area for which the member is elected or any person who lives or works in that area; or
  - (c) Relate to an allegation that the Council has failed to discharge a function for which it is responsible or that the discharge of the function has failed/is failing on a systematic basis;
  
10. A CCfA for a crime and disorder matter must:
  - (a) Relate to Crime and Disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment) which affects all or part of the area represented by the councillor; or
  - (b) Relate to the misuse of drugs, alcohol and other substances in that area.

## **WHAT IS EXCLUDED FROM A COUNCILLOR CALL FOR ACTION?**

11. The following matters are excluded from the scope of the CCfA<sup>b</sup>:
  - (a) Any matter relating to a planning decision;
  - (b) Any matter relating to a licensing decision;
  - (c) Any matter relating to an individual or entity in respect of which there is a statutory right of recourse to an appeal;
  - (d) Any matter which is vexatious, discriminatory, or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a Sub-Committee of that Committee;
  - (e) Any matter relating to an individual complaint, for which the Council's corporate complaints procedure should be followed;
  - (f) The scrutinising of matters of wider Council policy;
  - (g) Any decision of the Cabinet which has been taken but not yet implemented, for which the Call-In procedure should be used;
  - (h) The resolution of urgent matters in view of the time that may be needed for the Committee to assess the initial referral and then investigate the matter;

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<sup>b</sup> For the purposes of exclusions, items (a)–(d) are excluded by The Overview and Scrutiny (Reference By Councillors) (Excluded Matters) (England) Order 2008.

- (i) An individual Ward Councillor's own personal agenda issues. It is the purpose of the CCfA to champion issues of genuine local concern that have a direct impact on the community.
12. In that in the case of exclusions (b)-(d), these exclusions do not apply if the allegation relates to a systemic failure in respect of the Council's service.

### **WHAT IS EXPECTED OF WARD COUNCILLORS?**

13. The CCfA is essentially recognition of the role undertaken by Ward Councillors in taking up either local government matters or crime and disorder matters on behalf of the community they serve. Accordingly, the responsibility to champion a CCfA ultimately lies with the Ward Councillor, subject to the guidance set out in this protocol, to decide:
- Which issues to take forward as a CCfA;
  - When an issue should be referred to Overview and Scrutiny;
  - When they can resolve the issue without recourse to the crime and disorder committee; and
  - When to reject an issue as a CCfA.
14. A Ward Councillor should only accept a CCfA request if they believe that it is an issue of genuine local community concern and, in the case of a crime and disorder CCfA, that it falls within the powers of the crime and disorder committee as set out in this protocol.
15. As part of this process a Ward Councillor in a multi-member ward should check to see if another Member has accepted or rejected this issue as a CCfA. However, even if a Member has rejected the issue as a CCfA, this does not prevent another Member in the same ward from taking a different view and referring the matter as a CCfA.
16. A Ward Councillor must in all cases respond the person who referred the CCfA matter to them and state what action, if any, they intend to take in respect of the matter.
17. Once a Ward Councillor accepts a potential CCfA they should contact the Democratic Support Team and seek guidance. At this point the Ward Member should continue to take steps themselves to try and resolve the issue through existing mechanisms.

### **CRIME AND DISORDER OVERVIEW AND SCRUTINY COMMITTEE**

18. The designated crime and disorder committee has the power to:
- Review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
  - Make reports or recommendations to the responsible authority with respect to the discharge of those functions.
19. A 'responsible authority'<sup>c</sup> is:

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<sup>c</sup> A 'responsible body' is any body or person defined as such in Section 5 of the Crime and Disorder Act 1998 in relation to Dover District Council's administrative area, which is for practical purposes those authorities responsible for crime and disorder strategies.

- Dover District Council;
  - A Chief Officer of Police for whom any part of his/her police area falls within the area of Dover District Council.
20. The crime and disorder committee must meet no less than twice in every twelve-month period to consider crime and disorder matters.

#### **CO-OPTees ON THE CRIME AND DISORDER OVERVIEW AND SCRUTINY COMMITTEE**

21. The crime and disorder committee has the power to co-opt additional members from those persons or bodies who are responsible authorities to serve on the Committee where it considers this to be appropriate in the exercise of its functions. The co-opted person has the same entitlement to vote as any other member of the Committee unless a decision has been taken to limit the exercise of their powers in relation to a particular matter or type of matter. Further details on the rules for co-optees can be found under in the Council's Constitution under the Overview and Scrutiny Procedure Rules.
22. If the crime and disorder committee decides to co-opt someone from a responsible authority or co-operating person/body, they must be consulted as to the most suitable person. A co-opted member will not be entitled to claim any allowances provided under the Members Allowance Scheme.

#### **THE REFERRAL PROCEDURE**

23. In the event that a Ward Councillor has registered a potential CCfA with the Democratic Support Team and has made efforts to resolve the matter through existing mechanisms but still been unsuccessful in doing so, they may ask for the matter to be referred to Overview and Scrutiny as a CCfA.
24. All referrals by Ward Councillors in respect of a CCfA must be submitted on the appropriate form for the attention of the Democratic Support Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ or send by facsimile on 01304 872452 or by e-mail to [scrutiny@dover.gov.uk](mailto:scrutiny@dover.gov.uk)
25. As part of this form, the Councillor should supply supporting evidence/information indicating:
- (a) The degree of local concern or support for the CCfA (eg from local constituents, the Parish or Town Council or local community groups);
  - (b) Why, in the case of crime and disorder matters, it might be appropriate for the committee to make recommendation or report to the Council in respect of the CCfA matter; and
  - (c) The previous action the Councillor or local people have taken to try and resolve the matter. The evidence of possible alternative action could be:
    - Discussions with other Ward Members (if in multi-member ward);
    - Informal discussions with officers or other members (including the Cabinet);
    - Formal representations written on behalf of constituents;



- Public meetings;
- Petitions;
- Questions or Motions on the agenda at Full Council;
- Communication with local MPs;
- Communication with Councillor's in other authorities (for example, if the matter concerns county level services);
- Web or e-mail based campaigns.

26. It is important that at the start of the process the Ward Councillor is clear about what resolution s/he would wish to achieve and be realistic in their aspirations.

### **RIGHT OF APPEAL AGAINST A DECISION BY A WARD COUNCILLOR TO NOT REFER A CCfA**

27. If a Ward Councillor decides not to refer a matter as a CCfA then there is no right of appeal and no further action will be taken under the CCfA protocol. However, anyone who lives, works or studies within the Dover District does have the option of submitting a topic to one of the Council's Overview and Scrutiny Committees for consideration for inclusion in its work programme.

### **ASSESSMENT BY THE OVERVIEW AND SCRUTINY COMMITTEE**

28. The Democratic Support Officer will log the receipt of a CCfA referral and schedule the matter for consideration by the appropriate Overview and Scrutiny Committee. The item will be included on the agenda for the next available meeting of the committee within, where possible, 30 working days. The Ward Councillor referring the CCfA will be invited to attend the Committee meeting.

29. The Committee is required to consider the matter and decide what further action, if any, it wishes to take. As part of the assessment process, the Committee will provide challenge to the CCfA in order to validate its achievability and the robustness of the evidence submitted in support of it.

30. In considering the CCfA referred to the Committee, consideration should be given to the following criteria:

- Has the Ward Councillor has made a reasonable attempt at achieving a resolution?
- Have the circumstances or evidence changed in the event that the issue is the same as the subject of another CCfA?
- Has the relevant service or partner agency been given sufficient opportunity to resolve the matter?
- Is the issue currently been considered by an Overview and Scrutiny Committee or scheduled in a work programme for consideration during the municipal year?
- Is the matter within the scope of the CCfA to consider?

31. The CCfA referred to the Committee should be rejected if:

- It concerns one of the excluded matters listed in this procedure;
- The Ward Councillor has not in the view of the committee fully explored the issue or exhausted all alternative avenues;

- The issue referred by the CCfA cannot in the view of the Committee be resolved; or
- The issue is not within the scope of a local government matter or a crime and disorder matter.

### **ACCESS TO INFORMATION (CRIME AND DISORDER MATTERS)**

32. In the case of a crime and disorder CCfA, where the committee makes a request for information relevant to the exercise of its functions to the responsible authorities or the co-operating persons/bodies, they must provide such information by no later than the date indicated or as soon as reasonably possible after that date unless:
- It would prejudice current or future operations of the responsible authorities or the co-operating persons or bodies; or
  - If it would allow a living individual to be identified (unless such information is necessary or appropriate in order to enable the crime and disorder committee to exercise its powers).

### **RESOLUTION OF A COUNCILLOR CALL FOR ACTION REFERRAL**

33. In the event that the Committee is satisfied that the Ward Councillor has explored all necessary avenues open to him/her in progressing the matter as far as she or he can, it will seek to achieve a resolution to the matter. This can include, but is not limited to, the following:
- Request the attendance of an Officer or Member to provide further information (see below).
  - Refer the matter to one of the Council's Overview and Scrutiny Committees to action or incorporate into its work programme.
  - Request further information from a partner organisation.
  - Make recommendations to the Cabinet/Council concerning a District Council function as to how the matter might be resolved.
  - Facilitate dialogue between members of the community.
  - Decide to take no further action.
34. For the purposes of a local government CCfA, the Council's partners should be considered to be those in line with the focus of the Comprehensive Area Assessment and the partners involved in the Local Strategic Partnership.

### **ATTENDANCE AT COMMITTEE MEETINGS (CRIME AND DISORDER MATTERS)**

35. In addition to the existing powers under the Local Government Act 2000 that allow an Overview and Scrutiny Committee to require members of the Cabinet and Officers of the Council to attend a meeting to answer questions, the crime and disorder committee has the right to require the attendance before it of an officer or employee of a responsible authority or co-operating person or body, in order to answer questions or otherwise provide information. The committee should consult with the responsible body or co-operating person or body to identify the most suitable representative to attend.
36. A minimum of two weeks notice must be provided to any officer or employee of a responsible crime and disorder authority or co-operating person or body, unless they consent to a shorter period of notice.

37. The required officer or employee must attend on the specified date unless the person has a reasonable excuse for not doing so.

#### **RESPONSE TO A LOCAL GOVERNMENT COUNCILLOR CALL FOR ACTION**

38. In the event that the Committee decides not to pursue the matter, it must notify the Ward Councillor who referred the CCfA of its decision and the reasons for it.
39. If the Committee decides to make a report or recommendation to the Cabinet or the Council concerning a Council function, the referring Ward Councillor must be provided with a copy of the report or recommendation.

#### **RESPONSE TO A CRIME & DISORDER COUNCILLOR CALL FOR ACTION**

40. In the event that the Committee decides not to pursue the matter, it must notify the Ward Councillor who referred the CCfA (or in the event that the CCfA that has been referred to the Committee by the Cabinet it should be the person who originally raised the CCfA) of its decision and the reasons for it.
41. If the Committee decides to make a report or recommendation (which must be in writing) to the Cabinet or Council, a copy of the report or recommendation must be provided to the responsible authorities within one month of the date of the report or recommendation. In addition, the crime and disorder committee may provide a copy of the report or recommendation to any co-operating persons/bodies that it believes to be appropriate.
42. The responsible authority, person or body to which the committee submits a report or recommendation shall:
  - (a) Consider the report or recommendations;
  - (b) Respond to the crime and disorder committee indicating what, if any, action it proposes to take;
  - (c) Have regard to the report or recommendations in exercising its functions.
43. The response from the responsible authority, person or body to which a report or recommendation was made will be reported back to the next available meeting of the crime and disorder committee.

#### **FOLLOW-UP OF RESPONSES AND ACTIONS**

44. The crime and disorder committee shall review responses and monitor actions taken by the relevant authorities, co-operating persons, or bodies.

**PROTOCOL FOR PUBLIC SPEAKING AT OVERVIEW AND SCRUTINY**

**APPLICATION OF PROTOCOLS**

1. This protocol only applies to the scheduled meetings of the Scrutiny (Policy and Performance) Committee and the Scrutiny (Community and Regeneration) Committee. It does not apply to extraordinary meetings of either Committee or any Sub-Committees and Working Groups that may be formed from time to time.
2. This protocol will apply with effect from 1 April 2009 and does not affect any rights to speak that you may have at another Committee of the Council.
3. This protocol does not apply to petitions and the scrutiny work programme, which are covered by different procedures.

**WHO CAN SPEAK?**

4. Anyone who lives or works in the Dover District Council administrative area, including Town/Parish Councillors and County Councillors, are entitled to speak at a scheduled meeting of one of the Council's Overview and Scrutiny Committees, subject to he or she being present at the meeting when the Chairman of the Committee calls upon them to speak.
5. This protocol does not apply in respect of Dover District Councillors, who should instead contact the Chairman of the relevant Overview and Scrutiny Committee prior to the meeting and request to address the Committee. In the case of District Councillors who are dual hatted members, they will be treated as District Councillors for the purposes of this protocol.
6. In accordance with the provisions of the Code of Conduct adopted by Dover District Council, those Councillors with prejudicial interests in the item to be considered will still be able to make representations as if they were a member of the public.
7. In the event that several representatives from a single Parish Council register to speak in respect of the same agenda item, they will be grouped together and treated as one speaker for the purposes of this protocol. The Parish Councillor who first registered his or her wish to speak will be invited to speak first.

**WHAT CAN I SPEAK ON AT THE MEETING?**

8. The right of the public to speak, or indeed to attend, does not apply to business on the agenda in respect of which a resolution to exclude the press and public for the consideration of confidential or exempt business has been carried. For further information on confidential and exempt business please consult Part 4 (Access to Information Procedure Rules) of the Council's Constitution.

9. The Chairman of the Committee (or in their absence the Vice-Chairman) in consultation with the Controlling Group Spokesperson (or in their absence the Deputy Controlling Group Spokesperson) can in exceptional cases withdraw the application of this protocol to any item prior to the publication of the agenda where in their view doing so will assist the conduct of business at the meeting. In all cases, the agenda will state where the right of public speaking has been withdrawn.
10. Each registered speaker will have three minutes speaking time per item they have registered to speak on and no public speaker or Parish Council may register to speak on any more than two items on the agenda.
11. The right of the public to speak does not apply to the following agenda items: Apologies; Appointment of Substitute Members; Minutes; the Forward Plan, the Scrutiny Work Programme or any agenda item that is not accompanied by a written report.
12. The right to speak does not include the right to ask any questions of any District Councillor, Officer of the Council, invited attendee, or any other public speaker.
13. Any public speaker should declare at the start of their allotted speaking time if they have a current or prospective financial interest in the subject under discussion.

#### **WHAT WILL HAPPEN AT THE MEETING?**

14. The Chairman of the Committee (or in their absence the Vice-Chairman) will, at the designated point on the agenda, invite people who have registered to speak to identify themselves. The speaker (or speakers where it is a group of Parish Councillors) will then be called upon to move to the designated place and speak for three minutes.
15. A maximum of 30 minutes will be allocated for public speaking at the meeting. In the event there are insufficient speakers registered to fill the allotted 30 minutes, the public speaking time will be ended after the final registered speaker.
16. The Chairman of the Committee (or in their absence the Vice-Chairman) will have discretion to vary the time allowed and the number of speakers in cases of exceptional interest.
17. The Chairman of the Committee (or in their absence the Vice-Chairman) will have the discretion to stop a speaker before their allotted time has concluded if in the Chairman's view the speaker is making any comments that are, or appear to be, defamatory, vexatious, discriminatory, contain offensive language, are contrary to the procedures laid out in this protocol, are unrelated to the agenda item under consideration, or behaviour otherwise not appropriate for an Overview and Scrutiny Committee meeting.
18. In the event that the Chairman of the Committee (or in their absence the Vice-Chairman) exercises his or her discretion to stop a speaker before their allotted time has concluded their decision is final.
19. The failure of any person to attend and exercise the right to speak will not by itself affect the right to speak of any other person.

20. Any Committee Member or Officer of the District Council may ask questions of any speaker after their allotted speaking time has elapsed but these should be confined to points of clarification or material consideration only.
21. While the Overview and Scrutiny Committee will consider the comments that have been made by public speakers in forming its recommendations it reserves the right to form its own conclusions as it sees appropriate.

#### **HOW DO I REGISTER TO SPEAK?**

22. Members of the public who wish to register to speak at meetings of the Council's Overview and Scrutiny Committees should apply in writing using the designated application form by 2.00 pm on the second working day before the meeting. Those members of the public who are successful in registering to speak will be advised on the working day before the meeting.
23. There is a maximum of four speakers permitted to register to speak in relation to any one agenda item, and applications will be accepted in the order in which they have been received.
24. Members of the public who wish to register to speak are not permitted to circulate documentary or photographic evidence at the meeting without the prior consent of the Chairman (or in his or her absence, the Vice-Chairman) of the relevant Overview and Scrutiny Committee. In all cases, any written documentary evidence in excess of one side of A4 will not be accepted.
25. To register, the form should be returned for the attention of the Scrutiny Officer, Democratic Support, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ or send by facsimile on 01304 872452 or by e-mail to [scrutiny@dover.gov.uk](mailto:scrutiny@dover.gov.uk).

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## Financial Procedure Rules

Status of Financial Regulations

Financial Regulation A – Financial Management

Financial Regulation B – Financial Planning

Financial Regulation C – Risk Management and Control of Resources

Financial Regulation D – System and Procedures

Financial Regulation E – External Arrangements

Financial Management Standards which apply to Financial Procedure Rules

- Appendix 1 Policy Statement on Purchase Ordering and Invoice Payment
- Appendix 2 Policy Statement on Virement and Supplementary Estimates
- Appendix 3 Policy Statement on Advance Accounts, Petty Cash and Floats Policy
- Appendix 4 Policy Statement on the Financial Conduct of Council Officers and Members
- Appendix 5 Policy Statement on Salaries, Wages and Pensions
- Appendix 6 Policy Statement on Financial Planning and Budgetary Control
- Appendix 7 Policy relating to Trading Accounts
- Appendix 8 Policy Statement on Write Offs
- Appendix 9 Policy Statement on Inventories, Stocks and Stores
- Appendix 10 Policy Statement on Investments, Borrowing and Trust Funds
- Appendix 11 Policy Statement on Risk Management and Insurances
- Appendix 12 Policy Statement on Income
- Appendix 13 Policy Statement on Fraud and Other Irregularities



## **1. STATUS OF FINANCIAL PROCEDURE RULES**

- 1.1 The Council's Financial Procedure Rules provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 1.2 The regulations identify the financial responsibilities of the council, executive and overview and scrutiny members, the head of paid service, the monitoring officer, the Section 151 Officer and other chief officers. Chief officers are defined as the Chief Executive and the Heads of Service. Special responsibilities are allocated to the Monitoring Officer and the Section 151 Officer. The Executive and Chief Officers should maintain a written record where decision making has been delegated to members of staff, including seconded staff.
- 1.3 All members and staff 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.
- 1.4 The Section 151 Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the council for approval. The Section 151 Officer is also responsible for reporting, where appropriate, breaches of the Financial Regulations to the Council and/or to the Executive, and to the Scrutiny (Policy and Performance) Committee or its equivalent.
- 1.5 To underpin the Financial Procedure Rules, the Section 151 Officer has responsibility for issuing in a timely manner, detailed financial management standards, advice and guidance that Members, Officers and others acting on behalf of the Authority are required to follow. The Section 151 Officer is also responsible for ensuring compliance with financial procedure rules.
- 1.6 Such financial management standards, advice and guidance will be reviewed, and amended as necessary, by the Section 151 Officer.
- 1.7 Chief Officers are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their departments.

## **2. FINANCIAL REGULATIONS**

### **FINANCIAL REGULATION A: FINANCIAL MANAGEMENT**

#### **Introduction**

- A.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the Policy Framework and Budget. The Section 151 Officer shall be responsible for the compilation such policy statements on financial matters as they may determine, which shall supplement these Financial Procedure Rules. These policies provide officers and Members with greater detail of the financial controls to be followed concerning revenue and capital expenditure and general financial matters. Policy

Statements approved by the Executive and the Council shall have the same effect and standing as Financial Procedure Rules and shall be observed by all officers of the Council.

## **The Council**

- A.2 The Council is responsible for adopting the authority's Constitution and Members' Code of Conduct and for approving the Policy Framework and Budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its Constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Executive decisions.
- A.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes decisions taken by the executive and decisions taken by the Council and its committees. Delegations and details of who has responsibility for which decisions are set out in the Constitution.

## **The Executive**

- A.4 The Executive is responsible for proposing the Policy Framework and Budget to the Council, and for discharging executive functions in accordance with the Policy Framework and Budget.
- A.5 Executive decisions can be delegated to a committee of the Executive, a Cabinet Member, an officer or a joint committee.
- A.6 The Executive is responsible for establishing procedures to ensure that individual Executive members consult with relevant officers before taking a decision within his or 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

- A.7 The overview and scrutiny process is responsible for scrutinising Executive decisions before or after they have been implemented and for holding the Executive to account. Overview and scrutiny is also responsible for making recommendations on future policy options and for reviewing the general policy and service delivery of the authority.

### Standards Committee

- A.8 The Standards Committee is established by the 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.

## Other Regulatory Committees

- A.9 Various non Executive functions are exercised through politically balanced regulatory committees under powers delegated by the Council. The regulatory committees report to the Council.

## **The Statutory Officers**

### Head of Paid Service (and Chief Executive)

- A.10 The Head of Paid Service is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the Executive, the Council, overview and scrutiny and other committees. He or 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 executive and council decisions (see below). The Head of Paid Service is responsible for the manner in which the discharge by the authority of their functions is co-ordinated and for the organisation, appointment and proper management of the authority's staff.

### Monitoring Officer

- A.11 The Monitoring Officer is responsible for promoting and maintaining high standards of 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 the Council and/or to the Executive, and for ensuring that procedures for recording and reporting Executive Decisions are operating effectively.
- A.12 The Monitoring Officer must ensure that Executive decisions and the reasons for them are made public. He or she must also ensure that Council members are aware of decisions made by the Executive and of those made by officers who have delegated Executive responsibility.
- A.13 The Monitoring Officer is responsible for advising all Councillors and officers about who has authority to take a particular decision.
- A.14 The Monitoring Officer is responsible for advising the Executive or Council about whether a decision is likely to be considered contrary to or not wholly in accordance with the Policy Framework.
- A.15 The Monitoring Officer (together with the Section 151 Officer) is responsible for advising the Executive or 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 or not wholly in accordance with the Budget include:
- initiating a new scheme or policy for which no budgetary provision has been made in the Budget
  - committing expenditure in future years above the Budget level

- incurring Budget transfers above virement limits
- causing the total expenditure financed from Council tax, grants and corporately held reserves to increase,

A.16 The Monitoring Officer is responsible for maintaining an up-to-date copy of the Constitution.

### Section 151 Officer

A.17 The Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. These arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2003
- The Local Authority (Capital Finance & Accounting) (England) Regulations 2003

A.18 The Section 151 Officer is responsible for:

- the proper administration of the authority'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 timely financial information
- preparing the revenue Budget and capital programme
- treasury management
- all arrangements with the Council's bankers

A.19 Section 114 of the Local Government Finance Act 1988 requires the Section 151 Officer to report to the Council, Executive and external auditor if the authority 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 authority

- is about to make an unlawful entry in the authority's accounts.

A.20 Section 114 of the 1988 Act also requires:

- the Section 151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally
- the authority 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.

### Chief Officers

A.21 Chief Officers are responsible for:

- ensuring that Executive 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 (subject to the Contract Standing Orders) on behalf of the authority.

A.22 It is the responsibility of Chief Officers to consult with the Section 151 Officer and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred..

### **Other financial accountabilities in relation to:**

#### Virement

A.23 The Council is responsible for agreeing procedures for virement of expenditure between Budget headings. The Executive is responsible for preparing the authority's virement policy statement and strategy for approval by the Council and for reviewing compliance with the virement policy.

A.24 Chief Officers are responsible for agreeing in-year virements within delegated limits, with the agreement of the Section 151 Officer. All requests for virement are subject to the validation of the Section 151 Officer in accordance with the virement policy.

#### Accounting policies

A.25 The Section 151 Officer is responsible for setting accounting policies and ensuring that they are applied consistently, and in accordance with relevant guidance and Regulations.

#### Accounting records and returns

A.26 The Section 151 Officer is responsible for determining the accounting procedures and records for the authority , and in accordance with relevant guidance and Regulations.

#### The annual statement of accounts

A.27 The Section 151 Officer are 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 (the SORP) (CIPFA/LASAAC). The Governance Committee is responsible for approving the annual statement of accounts.

## **FINANCIAL REGULATION B: FINANCIAL PLANNING**

### **Introduction**

- B.1 The Council is responsible for agreeing the authority's Policy Framework and Budget, which will be proposed by the Executive. In terms of financial planning, the key elements are:
- the Medium Term Financial Plan – Revenue and Capital
  - the Revenue Budget
  - the Capital Programme
  - the Prudential Indicators for forward capital planning
  - the Treasury Management policy and strategy

### **Policy Framework**

- B.2 The Council is responsible for approving the Policy Framework and Budget. The content of the Policy Framework is set out in Article 4 of the Constitution.
- B.3 The 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 or not wholly in accordance with the Budget or Policy Framework.
- B.4 The Council is responsible for setting the level at which the Executive may reallocate Budget funds from one service to another. The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the Budget and Policy Framework within the financial limits set by the Council.
- B.5 The Council is responsible for setting prudential indicators when it approves the revenue budget for Council Tax setting and approving any revisions to these prudential indicators.

### **Preparation of the Medium Term Financial Plan**

- B.6 The Head of Paid Service and the Section 151 Officer are responsible for proposing the Medium Term Financial Plan to the Executive for consideration before its submission to the Council for approval.

### **Preparation of the best value performance plan**

- B.7 The Head of Paid Service and Director of Governance are responsible for proposing the best value performance plan (BVPP) to the Executive for consideration before its submission to the Council for approval.

## **Budgeting**

### Budget format

- B.8 The general format of the Budget will be approved by the Council and proposed by the Executive on the advice of the Section 151 Officer. The draft Budget should integrate capital and revenue planning and should include allocation to different services and projects, proposed taxation levels, calculated mandatory prudential indicators; contingencies, and use of reserves.

### Budget preparation

- B.9 The Executive is responsible for issuing guidance on the content of the annual Budget, taking account of the Community Strategy, Corporate Plan, Key Decisions and Statutory Duties and Requirements and the approved medium term capital programme.
- B.10 It is the responsibility of Chief Officers to prepare annual service estimates that reflect the Executive guidance and submit these to the Section 151 Officer for subsequent validation, consolidation and presentation to the Executive.
- B.11 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 Executive, before submission to the Council as part of the process leading to the setting of the Council Tax. The Council may amend the Budget or ask the Executive to reconsider it before approving it.

### Revenue budget monitoring and control

- B.12 The Section 151 Officer is responsible for providing appropriate financial information to enable Budgets to be monitored effectively. They must monitor expenditure against Budget allocations and report to the Executive on the overall position on a regular basis. The Chief Executive and Heads of Service are responsible for ensuring that budgetary control is properly exercised and for taking appropriate action to ensure that budgets are not exceeded.
- B.13 It is the responsibility of budget managers to control income and expenditure within their area and to monitor performance, through the Council's budget monitoring process approved by the Section 151 Officer. They should report on variances within their own areas, having regard to the parameters and timescales set by the Section 151 Officer and the Scrutiny (Policy and Performance) Committee or its equivalent. They should also take any action necessary to avoid exceeding their Budget allocation and alert the Section 151 Officer to any problems.

### Resource allocation

- B.14 The Section 151 Officer is responsible for developing and maintaining a resource allocation process that ensures due consideration of the Council's Policy Framework.

### Preparation and monitoring of the capital programme and prudential indicators



- B.15 The Executive is responsible for issuing guidance on the content of the Capital Programme in accordance with the Capital Appraisal Policy. The Section 151 Officer is responsible for ensuring that the capital programme is prepared on an annual basis for consideration by the Executive before submission to the Council. All schemes to be included in the Capital Programme must have the prior approval of the Executive on the basis of full capital appraisals, evaluated and approved by the Section 151 Officer. The Section 151 Officer is responsible for assessing potential capital programme resources for the ensuing three financial years and preparing a rolling programme of expenditure for approval by the Executive.
- B.16 The Section 151 Officer or an officer nominated by him or her will carry out monthly budget monitoring on the Council's capital accounts and consider the effect of any changes to the programme on its prudential indicators. Any such changes will be reported as soon as possible to the Executive and Council. Full Council has the responsibility of agreeing revised Prudential Indicators.

### Guidelines

- B.17 The Executive following agreement with the Section 151 Officer issues guidelines on Budget preparation to members and Chief Officers. The guidelines will take account of:
- legal requirements (in conjunction, where appropriate, with the Monitoring Officer)
  - the Medium Term Financial Plan
  - available resources (including the use of internal reserves and provisions)
  - spending pressures
  - best value and other relevant government guidelines
  - other internal policy documents
  - cross-cutting issues (where relevant).

### **Maintenance of reserves and provisions**

- B.18 It is the responsibility of the Section 151 Officer to advise the Executive and/or the Council on prudent levels of reserves and provisions for the authority, in accordance with CIPFA guidelines.

## **FINANCIAL 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 operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

### **Risk management**

- C.2 The Executive and Governance Committee are responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring that proper insurance exists where appropriate.
- C.3 The Director of Governance is responsible for preparing the authority's risk management policy statement, for promoting it throughout the authority and for advising the Executive on proper insurance cover where appropriate.
- C.4 All insurance cover and claim negotiation shall be effected by Director of Governance, or his designated officer. Chief Officers shall promptly notify the Director of Governance or his designated officer in writing of all new risks and ensure compliance with the Council's Risk Management Strategy.

### **Internal control**

- C.5 Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- C.6 The Section 151 Officer and Director of Governance are 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.7 It is the responsibility of Heads of Service 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.8 The Accounts and Audit Regulations 2003 issued by the Office of the Deputy Prime Minister require every local authority to maintain an adequate and effective internal audit function. Section 151 Officer shall arrange for compliance with these regulations and CIPFA/SOLACE guidance on Corporate Governance and Risk Management.
- C.9 Internal Audit shall have authority to:
- enter at all reasonable times any Council premises or land
  - have access to all records, documents, contracts and correspondence, including computerised hardware and software, relating to any financial and/or other transaction of the Council
  - require and receive such explanations as are necessary concerning any matter under examination and
  - require any employee of the Council to produce cash, stores or any other Council property under his control.

- 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 authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have Statutory rights of access.

### **Preventing fraud and corruption**

- C.12 The Director of Governance is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

### **Assets**

- C.13 Heads of Service should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

### **Treasury management**

- C.14 The authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- C.15 The Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The Executive proposes the policy statement to the Council. The Section 151 Officer has delegated responsibility for implementing and monitoring the statement.
- C.16 All money under the control of the authority is managed by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Section 151 Officer.
- C.17 The Section 151 Officer is responsible for reporting to the Executive a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.18 All Executive decisions on borrowing, investment or financing shall be delegated to the Section 151 Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- C.19 The Section 151 Officer is responsible for reporting to the Executive not less than twice in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

## **Staffing**

- C.20 The Council is responsible for determining how officer support for Executive and non-Executive roles within the authority will be organised and approving the staffing establishment.
- C.21 The Head of Paid Service is responsible for providing overall management of staff. The Section 151 Officer is responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- C.22 Chief Officers are responsible for controlling total staff numbers by:
- advising the Executive 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 the approved establishment in order to meet changing operational needs
  - the proper use of appointment procedures.

## **FINANCIAL 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 authority's accounting systems, the form of accounts and the supporting financial records. Chief Officers may not make changes to the existing financial systems or establish new systems without the approval of the Section 151 Officer. However, Chief Officers are responsible for the proper operation of financial processes in their own departments.
- D.3 Chief Officers should ensure that their staff receive relevant financial training.
- D.4 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Chief Officers must ensure that staff are aware of their responsibilities under this and all legislation.

### **Income and expenditure**

- D.5 It is the responsibility of Chief Officers to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Chief Officer's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority. The Section 151 Officer is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control. The Section 151 Officer will periodically report debt write off to the Executive.

## **Payments to employees and Members**

- D.6 The Section 151 Officer is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to Members.

## **Taxation**

- D.7 The Section 151 Officer is responsible for advising Chief Officers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.8 The Section 151 Officer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
- D.9 Responsibility for the Authority's tax returns connected with payments to employees and members rests with the Section 151 Officer.

## **Trading accounts/business units**

- D.10 The Section 151 Officer will advise on the establishment and operation of trading accounts and business units.

## **Banking**

- D.11 All cheques and payment forms shall be ordered only on the authority of the, Section 151 Officer and proper arrangements for their safe custody will be made.
- D.12 Cheques on the Council's banking accounts shall bear the facsimile signature of the Section 151 Officer or be signed by him or her or his authorised representative. Every cheque for £10,000 or more or amendments to cheques shall bear the personal signature of the Section 151 Officer or his authorised representative.
- D.13 In respect of the Girobank account, cheques for an amount in excess of £10,000 shall be endorsed by two authorised signatories.

## **FINANCIAL REGULATION E: EXTERNAL ARRANGEMENTS**

### **Introduction**

- E.1 The local authority 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 its area.

### **Partnerships**

- E.2 The Executive is responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

- E.3 The Executive can delegate functions, including those relating to partnerships to officers. These are set out in the scheme of delegation that forms part of the Council's Constitution. Where functions are delegated, the Executive remains accountable for them to the Council.
- E.4 The Monitoring Officer and Section 151 Officer are responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- E.5 The Section 151 Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.
- E.6 The Monitoring Officer and Section 151 Officer must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies and must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7 Chief Officers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **External funding**

- E.8 The Section 151 Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

## **POLICY STATEMENT ON PURCHASE ORDERING AND INVOICE PAYMENT**

### **Introduction**

Budget managers are expected to monitor their budgets on a monthly basis. Control starts with commitments placed against individual budgets in the form of Orders.

Officers requisitioning official orders shall ensure that, where appropriate, the procedures for market testing as in the Contract Standing Orders are followed.

### **Purchase Ordering**

1. A written order or order requisition must be raised for ALL expenditure with only the following exceptions:
  - Insurance Premiums
  - Payments to Insurers for the recovery of excesses
  - Credit checks
  - Bailiff and Recovery Agent Costs
  - Excess Charge Enquiries
  - Bed & Breakfast for homelessness placements
  - Utility bills (gas/electricity/water/oil/telephones and any other metered service)
  - Certificate payments for ANITE and CONFIRM only
  - Approved petrol accounts
  - Pre-paid postage
  - Petty Cash
  - Concessionary fares
  - Lease car rent
  - Housing renovations grants (capital)
  - Inland Revenue payments
  - Member expenses/allowances
  - Officer expenses
  - Council Tax/Business Rates
  - Commissions
  - All payments to DDC
  - Refund of Car Park Fees
  - Rent Refunds
  - Payments from Salaries control account
  - Superannuation backfunding
  - Refunds from the Debtors control account
  - Refunds of Building Control Fees
  - Refunds of Planning Fees
  - Service Charge Loans
  - Unrecovered insurance excess's
  - Refunds of P/H drivers licences
  - NDR interest

2. Officers shall not give verbal orders, unless by reason of urgency (eg out of hours service) and any such orders must be confirmed by raising an order requisition at the earliest opportunity to enable details of the order to be recorded within the Council's Purchasing system.
3. All order requisitions must be signed by an appropriate authorised signatory, who will normally have some budgetary control responsibility for the budget to which the expenditure will be charged. In the budget manager's absence, another authorised signatory can authorise the requisition, and details should be passed onto the responsible budget manager.
4. The budget manager should ensure that the order requisition records the appropriate expenditure code and that there are sufficient monies available within the budget. Where insufficient funds are available within the correct budget, arrangements should be discussed with Accountancy and virements made as appropriate.
5. It is the budget manager's responsibility to ensure the accuracy of the order. It must contain:
  - the full details of the supplier, (name, address, including post-code),
  - complete details of the goods/works required, (quantities/description of goods etc)
  - unit prices where appropriate,

### **Goods Receipting**

1. It will be the responsibility of the officer ordering the goods to ensure that arrangements are in place to confirm the delivery of the goods or service to the Council's Purchasing section. This may be in writing or electronically. Receipt of goods/completion of work will be recorded on the computer system to facilitate the payment process.
2. Certification of the acceptance of goods/services will act as agreement to pay the invoice in accordance with the details recorded on the order.
3. Where goods/services are deficient, either in quantity or standard, this is to be noted on the goods received record to ensure that the payment eventually made reflects the value of goods/works actually received.

### **Payment of Invoices**

1. All invoices should be addressed to the Council.
2. Payments only will be made through the Council's creditor system.
3. The usual method of payment shall be by BACS or cheque from the Council's bank account. The Council's preferred method is BACS. The Section 151 Officer shall expressly agree any other means.
4. Petty cash payments may be by cash from an official petty cash float.



5. When an invoice is received and it matches the order exactly, provided the goods/works have been recorded as received within the purchasing system, then the Creditors Section will process the invoice, and the budget manager will not have to authorise it.
6. Where an invoice does not match the order, the invoice will be referred back to the budget manager for him or her to authorise the variation
7. If an invoice is received where an order should have been placed but was not, then the budget manager is required to complete the Creditors section's notice to explain why an order was not previously raised, and confirm that the invoice is a legitimate cost to the Council.
8. Where an invoice is received and the expenditure is of a type where no order is required, then the invoice will be sent to the relevant budget manager for certification for payment. Utility charges are excepted. These are paid upon receipt and details are input to the Councils Utility database. A summary of payments made will be provided to the relevant Service Manager.
9. The names and sample signatures of officers authorised to certify invoices shall be recorded in a register maintained within the Creditors Section. This information will also be made available to other sections involved in the processes.
10. Before certifying an invoice, the certifying officer shall have satisfied himself or herself that:
  - (a) the work, goods or services to which the account relates have been received, carried out, examined and approved
  - (b) the prices, extensions, arithmetic, trade discounts, other allowances, credits and value added tax are correct
  - (c) the expenditure has been properly incurred and a budget provision exists and has not been exceeded
  - (d) appropriate entries have been made in inventory lists or stores records as required
  - (e) the account is the liability of the Council
  - (f) the account has not been previously paid
  - (g) the account has been correctly coded
11. A description of the expense should be recorded on the financial system. This description will then aid budgetary control and reporting.
12. An officer shall not certify any account or payment made payable to himself or herself or to a related party where he or she has a financial interest.
13. All certificated contract payments shall be passed to the Creditors Section for inclusion in the Contracts Register. All final certificates should be agreed by the Head of Audit Partnership prior to payment.

14. At the end of each financial year each Chief Officer shall notify the Section 151 Officer of all outstanding expenditure relating to the previous year as soon as possible after 31 March and not later than a date specified by him or her.

Section 151 Officer

## **POLICY STATEMENT ON VIREMENT AND SUPPLEMENTARY ESTIMATES**

1. A Virement is defined as the reallocation of approved spending authority between heads within the approved budget.
2. A Supplementary estimate is defined as a request for additional financial resource where no provision exists within the current approved budget.
3. Controls need to be exercised to ensure that expenditure remains within the agreed limits and in accordance with the Council's stated policy objectives. Consequently, virements and any request for supplementary estimates are subject to the authorisation procedures stated below.

### **Revenue Budget Virements**

4. Revenue Budget Virements will be subject to the following procedures; and will apply to all revenue budgets including the use of contingency provision and vacancy allowance:
  - (i) Virements within a cost centre may be authorised without limit by a Head of Service subject to the agreement of the Portfolio Accountant.
  - (ii) Virements between cost centres controlled by a Head of Service shall be approved by the appropriate Head of Service or Budget Manager(s) provided the value does not exceed £20,000.
  - (iii) Virements between cost centres (including those managed by different Heads of Service) over £20,000 shall be approved by the Section 151 Officer, in consultation with Corporate Management Team as appropriate, and then be notified to the relevant Portfolio Holder(s) and reported through the Performance Report.
  - (iv) No virement shall be authorised under (i)-(iii) above, regardless of the amount, where it has significant policy implications, without also being agreed with the appropriate Portfolio holder(s).
5. The above regulations shall apply equally to all revenue cost centres. The exception is special revenue schemes, where virements must be approved by Cabinet in all instances as these budgets are ringfenced and can only be used for specific approved projects.

### **Capital Programme Virements**

6. Virement between specific elements of an approved capital project may be made without limit by the Head of Service responsible for the project in consultation with the officer designated by the Section 151 Officer, provided that the total cost of the project remains unaffected.
7. Between capital projects, virements of up to a maximum of £20,000 may be approved by the Section 151 Officer. Virements of more than £20,000 must be reported to Cabinet and Members through the Budget Monitoring or Performance Report as soon as is practical. The latest capital programme will be available to Members on the intranet.

## **Supplementary estimates**

9. At any time when the totality of additional expenditure, reduced income, or a combination of the two are such that there is projected to be an increase in the net General Fund revenue requirement, a reduction in HRA projected reserves, or an increase in the overall outturn costs of approved projects within the current programme this shall be reported to CMT and Cabinet for consideration of the additional resources or the corrective action required.

Section 151 Officer

## **POLICY STATEMENT ON ADVANCE ACCOUNTS, PETTY CASH, AND FLOATS POLICY**

1. The issue and amount of petty cash accounts, floats and the return of them shall be under arrangements controlled by the Section 151 Officer.
2. Petty cash expenditure should be limited to minor items not exceeding amounts determined periodically by the Section 151 Officer. Petty cash accounts should be maintained on the imprest system.
3. There is no limit on the value of subsistence claims, which may be paid from Petty Cash. However, it is expected that large claims should be requested for reimbursement via BACS, and smaller amounts from the main float held within the Cash Office at Whitfield rather than from smaller floats held elsewhere.
4. Vouchers must be obtained to support all expenditure to be reclaimed and must be presented, together with the appropriate form as determined by the Section 151 Officer. All vouchers must be coded and properly authorised, and are to be supported by VAT receipts where appropriate.
5. No income received on behalf of the Council shall be paid into petty cash, but must be banked or paid to the Authority as required in the Income Policy.
6. Petty cash vouchers shall be authorised by an officer specifically nominated by a Chief Officer for this task. Vouchers not bearing an authorised signature will be refused. Each Chief Officer shall provide the Creditors Section with a list of the officers he/she has nominated together with specimen signatures.
7. No officer shall authorise a petty cash voucher payable to him/herself.
8. The certification by an approved officer shall mean that that officer is satisfied that the expenditure was authorised, and properly and necessarily incurred.
9. In exceptional cases where expenditure exceeds the prescribed limit, reimbursement may be made via Petty Cash provided that details and vouchers are forwarded to the Internal Audit section for scrutiny and authorisation before payment is made.
10. An officer responsible for a Petty Cash float shall, when requested, give to the Accountancy Division a certificate as to the state of the advance, and always at the 31 March annually.
11. On leaving the employment of the Council or otherwise ceasing to be entitled to hold a petty cash advance, an officer shall account to the Accountancy Division for the amount advanced.
12. In circumstances approved in advance by the Director of Finance, Housing and Community or his designated officer, lump sum advances may be made to Members and Officers. Recipients of lump sum advances shall account for such expenditure as may be made for these advances and provide the Director of Finance, Housing and Community or

his designated officer, with evidence of such invoices, vouchers, dockets, VAT receipts or other documents as may be required.

13. The balance of monies not spent shall be paid back in to a Council account or cash office in a manner required by the Director of Finance, Housing and Community or his designated officer.

Section 151 Officer

## **POLICY STATEMENT ON THE FINANCIAL CONDUCT OF COUNCIL OFFICERS AND MEMBERS**

1. All employees of the Council shall conduct themselves in accordance with the guidelines provided in the Council's adopted Code of Conduct for Employees as amended from time to time. A copy of this document shall be provided to each employee on commencement of employment with the Council and each employee shall sign a written undertaking to observe those guidelines.
2. Employees must declare to an appropriate Head of Service any financial or other interest that could conflict with the Council's interests. A centrally held electronic Disclosures Register shall be maintained to indicate all officers with any financial or other interest in a contract to which the Council is a party.
3. It is a criminal offence for employees in their official capacity as Council Officers 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..
4. In terms of hospitality and gifts, only usable gifts of a small value may be accepted by individual staff members or a section as a whole. Examples of permissible gifts are detailed in the Code of Conduct for Employees. Under no circumstances may cash be accepted as a gift. All gifts accepted shall be recorded in the centrally held electronic Disclosures Register.
5. Hospitality received must be recorded in the centrally held Disclosures Register. Whenever possible, the agreement of a Head of Service shall be obtained prior to any member of staff accepting any offer of hospitality.
6. Where an outside person or organisation is seeking to sponsor a Council activity (whether by invitation, tender, negotiation or voluntarily), the basic guidelines concerning acceptance of gifts and hospitality as contained in the Code of Conduct for Employees shall be observed.
7. In the event of the Code of Conduct being insufficient to offer guidance in particular instances, the opinion of the Monitoring Officer shall be sought and his decision shall be final.
8. Members should abide by the adopted Code of Conduct for Members as amended from time to time, and disclose interests as required by that Code.
9. Each year the Section 151 Officer shall require all members and Heads of Service to complete a Related Party Transactions declaration, which shall record financial transactions between the member or Head of Service and the Council during the preceding year.

Section 151 Officer

## **POLICY STATEMENT ON SALARIES, WAGES AND PENSIONS**

1. All new appointments to the Authority shall be made in accordance with the establishment as approved by the Council and the local grading structure and scales of pay.
2. The payment of all salaries, wages, Local Government Superannuation Scheme pensions, compensation and other emoluments to all present or former employees shall be made under arrangements agreed by the Section 151 Officer
3. Each Chief Officer shall notify the Section 151 Officer immediately, and in the form prescribed by them, of all matters affecting such payments, and in particular:
  - (a) appointments, resignations, dismissals, suspensions, secondments and transfers;
  - (b) absences from duty for sickness, unpaid leave or other reason, but not normal leave;
  - (c) changes in remuneration, other than pay awards and agreements of general application;
  - (d) information necessary to maintain records of service for superannuation, income tax, national insurance and the like.
4. Time records or other pay documents shall be in a form prescribed or approved by the Section 151 Officer and shall be certified in writing by or on behalf of the Chief Officer. The documents must be approved by the Section 151 Officer in order to satisfy his obligations under taxation legislation. The names of officers authorised to sign such records shall be sent to the Section 151 Officer by each Chief Officer together with three specimen signatures, and shall be amended on the occasion of any change.
5. The Section 151 Officer shall agree the operation of the Council's Car Leasing Scheme, and make financial adjustments as required to salaries in respect of Officers' Contributions.

### **Members' and Officers' Allowances**

6. All staff claims for payment of car allowances, subsistence allowances, travelling and any other incidental expense shall be submitted monthly, duly certified, in a form approved by the Section 151 Officer.
7. The certification by or on behalf of the Chief Officer shall imply that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
8. An officer shall not certify a claim form made payable to himself or herself.
9. Claim forms submitted more than six months after the expenditure has been incurred shall be paid only on the approval of the Section 151 Officer.



10. Payments to Members, (including co-opted Members of the Council or its Committees), who are entitled to claim travelling or other allowances will be made under arrangements controlled by the Section 151 Officer upon receipt of the completed prescribed form. All claims shall be submitted at monthly intervals.

Section 151 Officer

## **POLICY STATEMENT ON FINANCIAL PLANNING AND BUDGETARY CONTROL**

### **Capital Expenditure**

1. The Approved Corporate Plan and associated business plans will determine the priorities for the Capital Programme to be undertaken each year.

The Council will be responsible for setting a Capital Programme that is affordable, prudent and sustainable in the medium term. Council must approve prudential indicators that ensure these criteria are met at the same time as the setting of the Council's revenue budgets (General Fund and Housing Revenue Account) for the following year.

2. The Section 151 Officer will ensure that the Council's prudential indicators are monitored and reviewed. Any changes will be reported to the next meeting of the Executive and Council.
3. Authority will be delegated to the Section 151 Officer to make changes between the separately agreed authorised and operational limits for borrowing and other long term liabilities, in accordance with option appraisal and best value for money for the authority; any such changes made will be reported to Council at its next meeting following the change.
4. Estimates of expenditure on each provisionally approved capital projects for inclusion in the Medium Term Capital Programme shall be prepared by Chief Officers in consultation with the Section 151 Officer or his designated officer.. These estimates shall be collated by the Accountancy Division and the Medium Term Capital Programme submitted to the Executive for recommendation to the Council as part of the Budget setting process.
5. The inclusion of items in an approved capital programme SHALL NOT, in itself, constitute authority to incur such expenditure. Prior to incurring expenditure a Capital and Special Works Project Appraisal in a format to be determined by the Section 151 Officer should be completed for each scheme by the appropriate Budget Officer.

On approval being granted, and receipt of tenders for the scheme, a further report shall be submitted to the Executive by the appropriate budget officer, prior to contracts being awarded, containing:

- (a) Details of tenders received
- (b) Revised estimates of costs of the scheme and revenue implications (only required if tender prices vary from original estimates).

The detailed form of the Capital Appraisal report shall be determined by the Section 151 Officer or his designated representative.

6. Procedure Rules relating to Contracts apply to this process.
7. Any proposed variation to approved capital expenditure, by the addition, deletion or modification of a project, shall be reported to the Executive, which may approve or refuse

the proposal or (where the variation requires Council approval in accordance with the approved Budget) refer the matter to the Council.

8. Where a Chief Officer wishes to vary an approved project, by the addition, deletion or modification of the project, he or she may (unless the variation requires Council approval in accordance with the approved Budget) do so with the approval of the relevant Portfolio Holder, provided the Corporate and Business objectives of the Council continue to be met, and its approved cash limit is not exceeded.
9. Any variation to an approved programme that reflects a change of policy must be referred to the Executive for consideration in the first instance and then (where necessary) referred on to the Council.
10. The Council's corporate Management Team shall nominate appropriate officers to perform post implementation reviews on selected projects over £50,000. The review should be carried out within 3 months of the date which could be deemed to be practical completion. The review should highlight whether the aims of the project have been achieved, whether the project was delivered within budget, and included learning points. This review will be reported to the Executive.

### **Capital Receipts**

11. The Section 151 Officer will calculate the amount of capital receipts from the sale of HRA assets due to Central Government, under the pooling of capital receipt regulations. The Section 151 Officer will ensure that the due amount is paid over to Central Government, within regulatory set deadlines, to avoid penalties.
12. Chief Officers will be responsible for keeping auditable records of any capital allowances that could reduce the amount of pooled receipts payable to the Government and must inform the Section 151 Officer.
13. A capital receipt from the sale of an asset totalling less than £10,000, may be placed in the appropriate revenue account, if approval is given by the Section 151 Officer.

### **Urgency Process**

14. Where a decision would be contrary to or not wholly in accordance with the Council's approved Budget but it is a matter of special urgency, the following rules are contained within the Budget and Policy Framework Procedures Rules:
  - (a) The executive, a committee of the executive, an individual member of the executive or officers 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 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 Council; and
    - (ii) if the chair of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The Monitoring Officer and the Section 151 Officer shall be consulted before implementing the urgency procedure.

The reasons why it is not practical to convene a quorate meeting of Council and the chair of the relevant overview and scrutiny committee'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 chair of a relevant overview and scrutiny committee 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.
15. Each Budget Officer, in conjunction with the Section 151 Officer , shall monitor spending on approved schemes. The Section 151 Officer shall submit regular reports to the Executive and Scrutiny Committee detailing performance against budget including details of over and underspends. The Executive shall determine the level of any additional resources required to meet the revised programme having considered the impact of revised investment decisions on the Council's revenue account by recalculating and approving its prudential indicators. .

### **Revenue Expenditure**

16. The detailed form of the revenue estimates shall be determined by the Section 151 Officer.
17. Estimates of income and expenditure on revenue accounts shall form part of the Business Plans and will be prepared by budget managers in consultation with the Accountancy Division and shall reflect the objectives of the approved Corporate Plan. These estimates shall be submitted to the relevant Portfolio Holder in January each year.
18. Each Portfolio Holder shall approve their revenue budget and recommend its submission for approval in draft to the Executive.
19. The Section 151 Officer shall collate the estimates approved by Portfolio holders and report upon them to the Executive.
20. The Executive shall consider the aggregate effect of the revenue estimates upon the Council's financial resources and delivery of the Corporate Plan, and, after consultation on any proposed amendment, shall submit them to the Council for approval together with a recommendation of the amount of Council Tax to be raised for the ensuing financial year.
21. The inclusion of items in approved revenue budgets SHALL constitute authority to incur expenditure EXCEPT:
- (a) to the extent that the Council has put a condition on any item or items
  - (b) where any financial assistance to outside bodies is involved
  - (c) where items are to be financed from reserves or provisions
  - (d) in the case of contracts over £100,000, where Contract Standing Orders apply.

In such cases, ((a) to (e) above), a separate report must be submitted to the Executive and (where necessary) the Council before such expenditure can be committed, and specific approval obtained before incurring the expenditure.

22. Expenditure may only be incurred if:
  - (a) it is within a Service Delivery Plan which supports the agreed Corporate Plan and the approved Budget for the financial year, and
  - (b) is within the amount approved for that category of expenditure within the Service Budget.
23. Where expenditure forms part of the approved Corporate Business Plan, but no approved budget exists, a supplementary estimate must be submitted to the Executive for approval and referral to the Council where necessary.
24. Amounts approved under specific Service Budgets in the approved Revenue Budget shall not be diverted to other purposes without adherence to the Virement Policy
25. Using appropriate performance management techniques, budget managers and Accountancy shall be responsible for the monitoring of income and expenditure against their approved revenue budget on a monthly basis. They shall be responsible for providing such information as the Section 151 Officer requires to enable them to report to the Executive the financial position of the Council against the approved budget.
26. Each Portfolio Holder shall monitor and regulate its financial performance.
27. Nothing in this policy shall prevent a Portfolio Holder or the designated co-ordinator or deputy co-ordinator for emergencies from incurring expenditure which is essential to meet any needs created by a sudden emergency empowered under section 138 of the Local Government Act 1972. Any such action must be reported to the next Executive meeting, and onto the next Council meeting.
28. Where a Portfolio Holder proposes:
  - (a) a new policy
  - (b) a variation in existing policy
  - (c) a variation in the method or time-scale of implementing an existing policythey shall submit a report to the Executive, who shall report thereon to the Council.
29. The Executive shall periodically keep the Council informed about the overall position of the Council's finances and shall report on the final accounts of each year end as soon as practicable.
30. Where a bid is made for Special Revenue funds, for projects in excess of £10,000, the procedure for approval of Capital Expenditure shall be followed. When approved, the funding will be made available within the appropriate revenue budget. However, no virement of this funding will be allowed without Cabinet approval.

## **Accounting Principles**

31. The following principles shall be observed in the allocation of all accounting duties:
  - (a) The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums shall be separated as completely as possible from the duty of collecting or paying them.
  - (b) Officers having the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.
  - (c) Certification of money and/or other benefits to officers shall be undertaken by an officer other than the person to whom the benefit accrues.
32. Any financial return made by a Chief Officer which may affect the financial liability of the Council must be verified by the Section 151 Officer before submission.

Section 151 Officer

## **POLICY RELATING TO TRADING ACCOUNTS**

1. Budgeting, budget monitoring and budgetary control is at the gross expenditure level ie before recharging Trading Account costs to services.
2. Recharges are generally on an apportionment basis provided by the relevant Trading Account Budget Manager. Any revision to the fundamental base's for recharges are required to be agreed by the Section 151 Officer.
3. Trading Account Budget Managers are responsible for providing a reasonable/informed apportionment base and reviewing these in a timely manner on an annual basis. No variation shall be made to the apportionment base once the annual budgets are agreed without the authorisation of the Section 151 Officer.
4. Details of all basis for apportionment shall be forwarded to the Section 151 Officer. Apportioned recharges shall be made by Journal Transfer by Accountancy at appropriate time intervals.
5. No balances will be carried forward on Trading accounts at the year-end.
6. The operation of Trading Accounts shall be in accordance with Policy Statements issued by the Section 151 Officer and periodically submitted to the Executive.
7. Where service users are dissatisfied with recharges made this should be raised with the Trading Account Budget manager, and if the matter remains unresolved, an appeal on the grounds of unreasonableness may be made to the Section 151 Officer.
6. Disputes relating to the quality and quantity of services provided should be referred to the relevant Chief Officer(s) for arbitration. If the matter then cannot be resolved it shall be referred to the Corporate Management Team for a decision which shall be binding on all parties to the dispute.
7. Each Sectional Manager shall compile a Service Delivery Plan which shall be presented to the Corporate Management Team for approval.

Section 151 Officer

## **PROPOSED REVISED POLICY STATEMENT ON WRITE OFFS**

### **Part 1 – Debts**

1. Under arrangements controlled by him or her, the Section 151 Officer and any officer nominated by him or her, shall have the authority to write off any debt or other sum owing to the Council which is deemed irrecoverable or uneconomic to pursue.
2. The Section 151 Officer shall make the appropriate entries in the accounting records in respect of write-offs in accordance with proper accounting practice.

### **Part 2 – Goods, Materials, Vehicles and Stocks**

3. Under arrangements controlled by him or her, the Section 151 Officer and any officers nominated by him or her, shall have the authority to write off the following:
  - (a) damaged or stolen goods.
  - (b) surplus goods and materials in accordance with the Stocks and Stores Policy.
  - (c) goods, vehicles or materials that are considered to have no material value due to deterioration or obsolescence.
4. Heads of Service shall forward details of any item under 1(a)-(c) above that they consider should be written off within their Division to the Section 151 Officer for his/her approval together with:
  - (a) details of the item to be written off.
  - (b) the circumstances necessitating the write-off.
  - (c) the reasons why they consider that that no proceeds on sale would accrue to the Council.
5. Where any items to be written off do constitute part of a stock account, the procedures for recording the write off within the Council's accounts and the method of disposing of the goods shall be approved by the Section 151 Officer. Subject to a financial limit to be agreed with the Section 151 Officer, approval need not be sought on every occasion where goods, vehicles and stocks are to be written off, provided agreed procedures are complied with. The Section 151 officer shall then make the appropriate entries in the accounting records in accordance with proper accounting practice.

Section 151 Officer



## **POLICY STATEMENT ON INVENTORIES, STOCKS AND STORES**

### **Inventories**

1. Inventories are maintained to assist in exercising adequate control over the Council's assets and to provide an adequate record for possible insurance claims.

Each Head of Service shall maintain an inventory of:

- (a) domestically attractive portable items (in particular electronic and electrical equipment) including personal computers, laptops, printers etc, and with a de minimis purchase cost of £250 per item or set of items;
  - (b) specialist plant, equipment, machinery, tools etc which would have to be specifically included in any insurance claim. Guidance on this can be obtained from the Council's Insurance Officer.
  - (c) Any leased equipment or plant since leases generally require the equipment and plant to be insured by the lessor.
2. Heads of Service are required to provide the Insurance Officer with up to date inventories as required and also to advise of significant acquisitions, transfers, disposals or losses.
  3. Council property shall only be used for Council business or for such other purposes as the Council may require or agree.
  4. Council property shall not be removed from the Council's buildings except
    - (a) in the ordinary course of the Council's business, or
    - (b) with the specific instruction or permission of the Chief Officer or officer nominated by him or her, or
    - (c) on instruction or with the permission of the Council or the Executive.
  5. Office furniture and equipment which is surplus to requirements must be handed over to the Council's Purchasing Section for re-allocation or disposal as appropriate
  6. Surplus ICT equipment is to be returned to the Director of Finance, Housing and Community, who shall reallocate it or dispose of it in accordance with the IT Disposal Policy.

### **Stocks and Stores**

7. Stock levels for all items should be maintained at the minimum level commensurate with efficient operation, re-order levels and delivery times.
8. Stock records in a format approved by the Section 151 Officer should be maintained for:

- (a) all stock held for retail purposes;
  - (b) all stock items held on the balance sheet;
  - (c) all stock of high value by virtue of unit value or number of items held.
9. Heads of Service shall arrange for test examinations of stocks by persons other than storekeepers at least once in every financial year, and always at 31 March in that financial year. Certification of the value of stocks or stores at this date will be forwarded to the Section 151 Officer.
10. A stock take shall always occur where stocks are to be transferred from one department or organisation to another, or in the event of transfer due to competitive tendering or other externalisation. The method of valuing such stock should be determined in consultation with the Accountancy Division, prior to the stock take.
11. The Accountancy Division shall be entitled to receive from any officer such information, as he or she requires in relation to stores for the accounting, costing and financial records.
12. In all cases, the S151 Officer or his designated representative shall be consulted prior to the disposal of any surplus materials, stores or equipment for which inventories or stock records are required, and one of the following options for disposal will be agreed:
- (a) by open sale to staff
  - (b) by competitive tender to Members and Officers of the Council
  - (c) donation or sale to an approved charity.
  - (d) by public auction
  - (e) in a manner determined in consultation between the Service Head, the Section 151 Officer and the Head of Audit Partnership.

Section 151 Officer

## **POLICY STATEMENT ON INVESTMENTS, BORROWING AND TRUST FUNDS**

1. All investments, borrowing and trust funds entered into by the Council shall be in accordance with the Council's "Policy Statement for Treasury Management" as agreed by the Council. The Section 151 Officer shall report twice a year to the Executive on the operation of the Policy Statement.
2. Appointment or alteration of any External Fund Manager shall be subject to the approval of the Council.
3. All investments of money under its control shall be made in the name of the Council or in the name of nominees approved in advance by the Executive.
4. All such securities belonging to the Council and the title deeds of all property in its ownership shall be held by either the Section 151 Officer, the Solicitor to the Council or the Council's Banker as required. The Section 151 Officer shall satisfy himself or herself that such arrangements are secure.
5. The Section 151 Officer shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowings of money by the Council.
6. Trust funds shall, wherever possible, be in the name of the Council.
7. Officers acting as Trustees by virtue of their position shall deposit all securities relating to the trust with the Section 151 Officer unless the deed provides otherwise.
8. The Council's Prudential Indicators for Treasury Management will be monitored on an ongoing basis and any exceptions or amendments should be reported via the Executive for approval by full Council at the earliest possible time. In particular, it is vital that the Section 151 Officer reports to Members at the earliest opportunity if its authorised borrowing limit is likely to be breached.

Section 151 Officer

## **POLICY STATEMENT ON RISK MANAGEMENT AND INSURANCES**

1. The Director of Governance shall, in consultation with the responsible officer, effect all insurance cover and negotiate all claims in consultation with other officers where necessary.
2. Heads of Service shall promptly notify the Director of Governance or his designated officer in writing of all new risks, properties or vehicles needing to be insured, and of any disposals or alterations affecting existing insurances.
3. Heads of Service shall notify the Director of Governance or his designated officer in writing of any loss, liability or damage or any event likely to lead to a claim on any Council policy, and shall where appropriate notify the police of the relevant circumstances.
4. All employees of the Council shall be included in a suitable fidelity guarantee insurance.
5. The Director of Governance or his designated officer shall annually, or at such other period as he or she considers necessary, review all insurances held by the Council in consultation with Heads of Service as appropriate.
6. Heads of Service shall consult the Solicitor to the Council and the Director of Governance or his designated officer in respect of the terms of any indemnity which the Council is requested to give.
7. Subject to 8, the Director of Governance or his designated officer shall inspect insurance policies of contractors for building, construction or engineering works, and consultants to ensure as far as possible that all necessary cover has been taken out.
8. It shall be the responsibility of the officer letting the contract to ensure that such policies are forwarded to the Director of Governance or his designated officer for inspection, and for that officer to inspect policies where the end date of the policy precedes the end of the contract or the contract runs over several years, and ensures updated and/or renewed policies are passed to the Director of Governance or his designated officer for inspection.
9. All officers shall comply with the provisions of the Council's Risk Management Strategy, ensuring that due consideration is given to risk management

Director of Governance

Solicitor to the Council

## **POLICY STATEMENT ON INCOME**

1. Procedures for the collection of all income due to the Council shall be under the control of the Section 151 Officer.
2. Chief Officers shall ensure that accounts are sent out promptly for the recovery of income due, in a form approved by the Section 151 Officer.
3. The Section 151 Officer shall be notified promptly of all income due to the Council from all contracts, leases and other agreements entered into which involve the receipt of income by the Council. He or she shall have the right to inspect any documents or other evidence in this connection.
4. The Section 151 Officer shall order, supply or approve arrangements relating to the receipt and control of receipt forms, books, tickets and other such items.
5. All income received by an officer on behalf of the Council shall be paid intact to the Council's bank account on the first available banking day, or to a Council cash Office. No deduction from such income may be made unless the Section 151 Officer specifically authorises it.
6. The officer banking such income shall enter on the paying-in slip a reference to the related debt (eg the receipt number or the debtor's name)
7. Personal cheques shall not be cashed out of the money held on behalf of the Council, except at the cash office at the main Council Offices in Whitfield, from the imprest account held specifically for this purpose. The Section 151 Officer shall specify the limitations applicable to this facility.
8. Every transfer of money belonging to the Council from one member of staff to another will be evidenced in the records of the departments concerned by the signature of the receiving officer.
9. New charges and variations in existing charges shall only be made upon a report to the Executive made by the Section 151 Officer, unless the Executive has delegated authority to the Chief Officer to amend charges without consultation. This regulation shall not apply to those Council concession managers who have the authority to vary charges written into the concession management contracts.
10. Chief Officers shall have the responsibility to ensure that the correct amount of VAT is added to income accounts where necessary.
11. The Section 151 Officer shall be responsible for all income recovery procedures, enforcement procedures and instalment arrangements.

Section 151 Officer



## **POLICY STATEMENT ON FRAUD AND OTHER IRREGULARITIES**

### **Definitions**

1. Fraud encompasses an array of irregularities and illegal acts characterised by intentional deception. It can be perpetrated for the benefit of or to the detriment of the organisation and by persons outside as well as inside the organisation.
2. Fraud is an illegal act. It can be perpetrated internally or externally and includes such areas as false claims, theft of cash or assets, computer misuse and corruption.
3. The Council has responsibilities under legislation concerned with money laundering to ensure that it has arrangements in place to identify any unusual payments which could be financed by the proceeds of crime.

### **Responsibilities**

4. It is a management responsibility to maintain the internal control system and ensure that the organisation's resources are properly applied in the manner and on activities intended. This includes responsibility for the prevention and detection of fraud and other illegal acts, including the identification the potential for money laundering.
5. Effective internal control provides a reasonable assurance that Dover District Council's objectives and goals will be achieved; and fraud and other irregularities will be prevented or detected. The control environment to assist management in the discharge of its responsibilities, includes the following elements:
  - an appropriate system of internal control (including preventive, detective and directive controls);
  - an effective organisational structure (separation of duties, supervision, clearly defined roles and responsibilities)
  - the assignment of authority and responsibility;
  - corporate policy - a code of conduct for employees;
  - monitoring relevant legal requirements;
  - existence of an independent Internal Audit function; and
  - the appointment of Overview and Scrutiny Committees.
6. Internal Auditors should exercise due professional care in performing internal audits. Internal Audit are responsible for identifying inadequate controls, recommending improvements and providing an independent and meaningful assurance on the adequacy, reliability and effectiveness of the internal control system. Although not directly responsible for preventing fraud, Internal Auditors should be alert to those conditions and activities where fraud and irregularities are most likely to occur.

7. Financial Procedure Rule C.12 states that:  
  
"The Director of Governance is responsible for the development and maintenance of an anti-fraud and anti-corruption policy."
8. Corporate Governance is the system that guides members and officers, and provides the mechanisms that demonstrate accountability, honesty, integrity and openness in all of the Council's business and it permeates every level of the organisation. It is owned by all members, staff and stakeholders and is embedded in the culture of the Council and applied within a transparent framework of management processes.
9. In line with this culture of Corporate Governance we therefore expect employees, and others that we deal with, who have concerns about fraud or other irregularities, including potential money laundering, regarding any aspects of the council's work to come forward and notify these concerns. It is recognised that most cases will proceed on a confidential basis. Disclosure should be through existing line management channels to the Section 151 Officer, Director of Governance or the Head of Audit Partnership.

## **INTERNAL FRAUD**

### **Communicating Suspicions of Internal Fraudulent Practices**

10. There are existing procedures in place relating to complaints and grievances. These procedures are specifically intended to cover the disclosure of potential fraud and other irregularities.
11. As a first step, employees (including agency staff and contractors) are encouraged to come forward and raise concerns or suspicions with their appropriate line manager or their superior at the earliest opportunity. Concerns ideally should be raised verbally, but can be in writing. Maintaining suitable confidentiality, the allegation and information should be referred by the line manager to the Section 151 Officer, Director of Governance or the Head of Audit Partnership .
12. However, it is recognised that it may not always be desirable or feasible for an employee who wishes to report a matter to use the official channels, as they may genuinely fear the consequences of reporting through line management. This could be due to their manager or close colleagues being implicated, the risk of victimisation, loss of job, loss of promotion opportunities and other such issues.
13. In such cases, individuals are encouraged to use the alternative reporting channels detailed in the Confidential Reporting Policy at Annex 1. This provides an internal channel of communication for any employee, who feels unable to use the existing reporting avenues but still wishes to confidentially report within Dover District Council. The Confidential Reporting Policy embraces the disclosure requirements of the Public Interest Disclosure Act 1998.
14. All disclosures relating to fraud or other irregularities will be initially logged (without compromising any agreed confidentiality) and the facts carefully considered. Preliminary inquiries will be undertaken carefully and quickly under the direction of The Section 151 Officer, Director of Governance and/or the Head of Audit Partnership to establish the



validity of the allegation and the risk/loss to Dover District Council. The appropriateness of a further investigation and its form will be dependent on the outcome of initial research, the seriousness and implications of the allegation, and the risk to Dover District Council and will be determined by the Section 151 Officer, Director of Governance and the Head of Audit Partnership.

15. All information received, will be dealt with in the strictest confidence. Contact between the investigating officer and the informant will depend on the nature of the matters raised but it will usually be necessary to establish additional facts, clarify information and where appropriate (subject to legal constraints) to feedback findings and progress. Where a meeting is required, this can be arranged off-site and a trade union representative, professional associate or friend can accompany the informant.
16. Anonymous disclosure will receive equal attention but investigations risk being hampered by incomplete information and the inability to obtain further vital information and to clarify points.
17. Investigative work will be undertaken with the aim of not revealing the informant. Dover District Council will throughout any investigation actively address and minimise any difficulties an employee disclosing information may experience.
18. This policy is intended to provide an avenue within Dover District Council to raise fraud and other irregularity concerns. Although employees are encouraged to use the internal reporting channels, matters can be taken outside of Dover District Council. However, members of staff should ensure that they do not disclose confidential information and should recognise that reporting to external bodies may well precipitate far more obtrusive investigations than those conducted in-house. External contact points are:
  - External Audit;
  - Trade unions;
  - Relevant professional body; and
  - The Police.
19. Disclosures on suspicion of money laundering will be forwarded to the National Criminal Intelligence Service as required by law.

### **Gathering Evidence**

20. Once suspicions of fraud or irregularity have been reported or found, evidence should be collected in order to:
  - prove that an offence has been committed or confirm that there is no case to answer;
  - identify a culprit wherever possible;
  - provide facts on which to base disciplinary or legal action;
  - prevent evidence being destroyed or other offences being concealed; and
  - identify and rectify weaknesses in the system of internal control.

21. Internal audit has a statutory right of access to all records, documents, contracts and correspondence relating to the accounts of the authority, in addition to any information and explanation considered necessary from officers of the authority, for the purpose of the investigation (Financial Procedure Rules C.9). Access to documents and persons outside the authority are not available to Internal Audit, but such powers do extend to the External Auditor.

### **The Position of the Informant**

22. The policy of Dover District Council is to actively encourage open reporting, so that a fraud or other irregularities can be uncovered and stopped as quickly as possible, thus minimising losses to the Council. In certain circumstances, the "evidence" of the employee disclosing information may prove crucial to the Council's ability to take formal disciplinary action under the Disciplinary Procedure or to refer the matter to the Police. Where such a situation applies, the informant will be encouraged to release the Council from its undertaking as to confidentiality and to give evidence openly.
23. However, the confidentiality undertaking will be regarded as paramount. No employee will be pressurised in any way or treated less favourably as a result of declining to release the Council from its undertaking, unless the informant has a supervisory or managerial role in relation to an employee under suspicion of fraud. In such cases, the informant will be regarded as having a duty to co-operate fully with the Council and a failure to co-operate will be regarded as a breach of that officer's Contract of Employment.
24. However, the External Auditor and the Police are not similarly bound. Moreover, in an extreme case, an officer of the Council could be required to disclose the identity of an informant in a Court of Law or to External Audit under threat of legal process. The Council will, in such circumstances, endeavour to maintain confidentiality but will not itself act contrary to law or require its officers to do so. In this type of situation, disclosure of information will not be regarded as being a breach of any undertaking as to confidentiality, which had been previously given. Once the Council has been forced to disclose a source, the informant will be contacted immediately, to make them aware of the involvement of the Police or External Audit, and immediate action taken to minimise any difficulties.

### **Misconduct Pertaining to Fraud Cases**

25. It is a serious disciplinary offence for management and staff to victimise employees or deter them from raising a concern about fraud or corruption suspected within the authority. Abusing the reporting process by maliciously raising unfounded allegations will also be treated as a serious disciplinary offence.
26. In the event of there being a case to answer regarding the misconduct of an employee, whether having acted fraudulently, participated in some other irregularity, or made false and malicious allegations, the Council's Disciplinary Procedure will be implemented as documented in the Staff Handbook. A detailed description of the Council's Disciplinary Procedure is not within the scope of this Policy Statement. Each case will be considered on its individual merits and, depending on the severity of the case, could result in the giving of warnings or even the dismissal of a member of staff as appropriate

### **Police Prosecutions**

27. The decision to refer a matter for Police prosecution will be taken by the Section 151 Officer, in consultation with the Chief Executive and/or the Section 151 Officer following consultation with the Monitoring Officer and the Head of Audit Partnership as appropriate. This course of action will generally be taken in one or more of the following circumstances:
- (a) Where a fraud or other irregularity is deemed serious in that large amounts of cash, stores or other property of significant value to the Council are involved;
  - (b) Where the offence is particularly blatant or otherwise indicative of a high level of dishonest intent;
  - (c) Where the offence has been committed systematically over a considerable period of time;
  - (d) Where (a), (b) or (c) do not apply in relation to the offence itself, but Police involvement is considered appropriate, because the ramifications of the fraud or irregularity are otherwise serious or potentially serious and/or of far reaching effect.

## **EXTERNAL FRAUD**

### **Exposure to External Fraud**

28. External fraud represents a major risk to the Council, as any weaknesses in control increases fraud exposure. Such frauds are committed by persons outside the organisation, but may involve collusion from within the Council. Areas at risk include:
- (a) Misappropriation of Council money or property, including cash handling, receipts and payments and computer equipment;
  - (b) The deliberate misrepresentation of information for gain, such as using false statements or documentation to fraudulently obtain benefits, loans and grants;
  - (c) The exploitation of vulnerable systems within an organisation by third parties, such as the submission and acceptance of fictitious or duplicate invoices resulting in fraudulent payments to third parties; and
  - (d) The exploitation of over reliance on key staff, the lack of separation of duties or over delegation.
  - (e) The potential for the proceeds of crime to be laundered through the Council via transactions such as through funding contracts.

### **Corruption**

29. This occurs when employee and/or outsider benefits from a fraud executed for the primary benefit of a third party. This includes inducing others to act improperly or accept inducements, eg the acceptance of bribes or kickbacks to secure contracts.
30. In accordance with the Public Bodies Corrupt Practices Act (1889) and the Prevention of Corruption Acts (1906 and 1916), the accused person must prove their innocence rather

than the accuser/investigator being obliged to prove their guilt. This requirement is clearly laid down in the Prevention of Corruption Act 1916 which states:

'When money or other consideration is paid, given or received by a person in the employment of the Crown or of a Public Body by, or from, a person holding, or seeking to obtain a contract from the Crown, or a Public Body such money or consideration shall be deemed to have been given, or received, corruptly unless the contrary is proved'.

31. As non-employees are generally involved in corruption in the public sector through collusion with employees and members, it is difficult for the Council to successfully investigate the 'external element' of the fraud. It is therefore essential that as soon as there is any suspicion of corrupt practice, the Section 151 Officer must be notified, enabling consideration of police involvement at an early stage of the investigation.

### **Prevention and Detection of Fraud and Other Irregularities**

32. Most frauds result from the absence of control or the failure to comply with procedures. It is therefore essential that systems of internal control are robust, staff correctly operate the control systems, remain vigilant at all times and react promptly, when suspicions are aroused.
33. The prevention and detection of external fraud is of importance to Dover District Council. As part of this objective Dover District Council participates in the National Fraud Initiative Data Matching Exercise and other data matching activities for potential benefit fraud detection.
34. Cases of potential benefit fraud are investigated Dover District Council's own Benefits Fraud Operations Section. Once the fraud or irregularity has been established, evidence is collected to prove the offence, determine the amount of benefit overpaid and to support any future prosecution. In addition management should identify and rectify any weaknesses in the system of internal control. There is also a confidential Benefit Fraud hotline for members of the public or staff to report any suspicions (01304 872190).
35. Dover District Council has adopted the Verification of Benefits Administration Framework, which emphasises prevention of fraud through thorough claim checking, use of original documentation and a regime of unannounced visiting.

**CONFIDENTIAL REPORTING POLICY (WHISTLEBLOWING POLICY)**

1. Dover District Council's confidential reporting policy is designed to allow employees to disclose allegations of malpractice, potential internal fraud, instances of misappropriation of monies, potential money laundering or other improper activity. It encourages employees to raise matters of concern internally, which is more likely to uphold the reputation of Dover District Council than either public disclosures or allowing malpractice or fraud to continue.
2. Disclosure is initially encouraged through the existing reporting/line management channels. However, it is recognized that it may not always be feasible or desirable for a member of staff to disclose information to their manager, as they may genuinely fear the consequences of reporting via line management channels. This could be due to management being implicated in an undesirable activity, the risk of victimisation or loss of job or loss of promotion opportunities or other similar concerns.
3. In these cases Dover District Council promotes confidential reporting to an independent person (Head of Audit Partnership) providing a secure alternative for employees who feel unable to report through the traditional line management channels. Employees can also disclose direct to the Chief Executive, Monitoring Officer or any other Head of Service.
4. Employees can report issues of concern either anonymously or in confidence. Dover District Council encourages open confidential reporting, as this enables the investigating officer to make contact with the informant, facilitating a dialogue to establish additional facts, clarify information and where legally appropriate to enable the feedback of findings and progress. Anonymous disclosure will receive equal treatment but investigations risk being hampered by lack of information and the inability to obtain further vital information.
5. Confidential reporting provides an additional communication channel, which enables Dover District Council to become aware of instances of potential fraud, misappropriation or improper activity. Dover District Council recognises that reporting information regarding potential fraudulent activity involves a great deal of courage and still has negative associations. It therefore supports and protects legitimate informants, providing confidentiality, protecting against personal recriminations and providing an ongoing dialogue on progress.
6. The Confidential Reporting Policy also protects individual members of staff against false and malicious allegations. All allegations will be investigated, but any proven malicious allegations against other members of staff will be treated as a disciplinary matter.
7. The Head of Audit Partnership can be contacted on 01304 872142 and the Monitoring Officer can be contacted on 01304 872141. Alternatively a secure 24-hour answer phone service is available which the Head of Audit Partnership regularly monitors (01304 872198). The availability of this continuous service recognizes that many disclosures are reported outside of the office environment and outside of office hours.

# **Contract Standing Orders**

## **1. 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 procurement decisions are made and implemented (including the grant of service concessions) and which ensure that the Council:
  - 1.1.1 Furthers its corporate objectives
  - 1.1.2 Uses its resources efficiently
  - 1.1.3 Purchases quality goods, services and works
  - 1.1.4 Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Procurement by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, efficiency, whole life costings 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 and grant service concessions. They set out minimum requirements to be followed. Further information and guidelines are set out in the Council's Procurement Guide.

## **2. 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 and the granting of service concessions.
- 2.2 These Contract Standing Orders apply to all contracts including all purchase orders, service 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.
- 2.3 These Contract Standing Orders do not apply to:
  - 2.3.1 Employment contracts
  - 2.3.2 Contracts relating solely to the purchase or sale of interests in land
  - 2.3.3 Contracts for retention of legal counsel and the appointment of expert witnesses in legal proceedings

2.3.4. Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies.

### 3. **General Principles Applying to All Contracts**

- 3.1 All purchases however small shall be in writing.
- 3.2 All contracts of a value of £10,000 or more shall include contract clauses relevant to the procurement. Contract clauses can be issued by Legal Services.
- 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, service concessions, material, matters or things to be carried out or supplied
  - 3.3.2 Specify the Price to be paid, the estimated price or the basis on which the price is to be calculated
  - 3.3.3 The time within which the contract is to be performed
  - 3.3.4 Quality requirements and/or standards which must be met
  - 3.3.5 Requirements on the contractor to hold and maintain appropriate insurance
  - 3.3.6 What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
  - 3.3.7 Requirements on the contractor to comply with all relevant equalities and health and safety legislation
  - 3.3.8 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 Bribery Act 2010 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 and necessary to enable or facilitate the Council's compliance with the public sector equality duty<sup>d</sup> imposed on it by the Equality Act 2010. 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 Procurement 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 in line with the Council's Risk Management Strategy, which shall be proportionate to the value of the contract,

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<sup>d</sup> Section 149 Equality Act 2010

and which shall be kept on the contract file [and on the Council's Contract Database].

#### 4. **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 Procurement 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 Procurement 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 Procurement Guide and guidelines, policies and procedures.

#### 5. **Responsibilities of Directors, Heads of Service and Responsible Officers**

- 5.1 Each Director shall have overall responsibility for the purchasing undertaken by his/her Directorate.
- 5.2 Each Head of Service shall be responsible for the purchasing undertaken by his or her service and shall
  - 5.2.1 be accountable to the Executive 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 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 costings and cost savings
  - 5.4.5 compliance with the Council's decision making processes, in particular in relation to Key Decisions
  - 5.4.6 that all contracts of a value of £10,000 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 £10,000 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, Directors, Heads of Service 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 It is a disciplinary offence to fail to comply with these Contract Standing Orders and the Council's Procurement Guide. All employees have a duty to report breaches of Contract Standing Orders to the Monitoring Officer.
- 5.7 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 immediately report that suspicion to the Council's Monitoring Officer.

## 6. **Scheme of Delegation**

- 6.1 Council procurement 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 Director/Head of Service.

6.2 Officers shall, where appropriate, be informed by their Director/Head of Service of the extent of any delegated authority and applicable financial thresholds.

**7. 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. 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 ("OJ") (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**

<b>Total Value £</b>	<b>Type of contract</b>	<b>Procedure to be used</b>
0 to 9,999	works, supplies and services	At least one written quote in advance
10,000 to 99,999	works, supplies and services	At least three written quotes in advance
100,000 to £173,934**	works, supplies and services	At least three written tenders in advance, following advertisement by public notice
£173,934** plus  **EU Threshold for supplies and services	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** **EU Threshold for works	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 which means that they are subject to the EU Rules 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 or a specialist consultant.

## 8. **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 Director/Head of Service in advance acting in consultation with the Solicitor to the Council where appropriate.

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 £100,000 or above shall be [executed as a deed] [be signed by at least two officers of the council with appropriate delegated authority or made under seal of the Council and attested by at least one officer.] All other contracts may be signed by officers with appropriate delegated authority. £100,000 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 Senior ICT Manager.

## 9. **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 repeat purchases and/or purchases of a similar type.

**10. 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 which deliver sustainability, efficiency and cost savings (where appropriate).

**11. Submission and Opening of tenders**

11.1 An Invitation to Tender shall be issued by the Council for all contracts over £100,000 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 Head of Democratic Services

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 Monitoring Officer 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 Tenders shall be opened by a representative of the Head of Democratic Services, and either the Leader or the relevant Portfolio Holder, or other Portfolio Holder in their absence. An immediate record shall be made of tenders received including names and addresses and the date and time of opening. The record shall be certified by those opening the tenders.
- 11.6 The tender opening process is set out in detail at Appendix 1 to these contract standing orders.

## 12. **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/tenderers.
- 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 Monitoring Officer 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. **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 or grant of service concession 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 if the goods or materials to be purchased are available from only one manufacturer; or
- 13.1.5 where the supply is for parts for existing machinery, or where the terms of supply of equipment require that maintenance be undertaken by a specified provider; or
- 13.1.6 where the Work is of a specialist nature, the skill of the contractor is of primary importance, and the supply market has been tested and found to be limited; or

- 13.1.7 where the supply is for maintenance to existing IT equipment or software, including enhancements to current software, which can only be performed by the licensed developer or owner of the system; or
- 13.1.8 at the discretion of the relevant Head of Service 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 Procurement 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 to be submitted in advance to the Monitoring Officer or Section 151 Officer, 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 Monitoring Officer or 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.
- 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.
- 13.6 A waiver shall not be applied for reasons of poor contract planning.
- 14. **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 Procurement Guide.
  - 14.2 Any extension must be:
    - 14.2.1 Fully documented
    - 14.2.2 Subject to a written report in an approved format to be submitted to the Monitoring Officer and Solicitor to the Council; 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 Monitoring Officer and the Solicitor to the Council, 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. **Purchasing Schemes**

15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Procurement 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 ("GPS") (formerly OGC)

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 LG Improvement and Development:  
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 Procurement Guide.

**16. 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 Monitoring Officer and shall be agreed and adopted by the Council after consideration by the Governance Committee. The Solicitor to the Council will make revisions to the EU Thresholds as and when they occur.

**17. Suspension of these Contract Standing Orders**

17.1 These Contract Standing Orders may be suspended in accordance with Article 16 of the Constitution.

**Procedure for Receiving, Storing and Opening Tenders  
(See Contract Standing Orders – specifically Contract Standing Order No 11)**

The officer responsible for inviting tenders will advise officers in the Democratic Support Section of the name of the scheme which is being tendered for, the number of firms invited to tender (hence the number of documents to be expected), the date on which the tender is to be returned and an estimate of the tender total. Details may be by memo or e-mail.

Democratic Support Officers now only become involved where the estimate is over £100,000. The officer sending out details inviting tenders must supply a yellow label to each of the firms completed with the name of the scheme and the return date. When required, these labels are kept in a tray beside the metal cupboard in the Democratic Support Room and show that the tender is to be returned to Democratic Support. Tenders valued below £100,000 are received and opened by the officer who issues the invitation; they can supply their own labels which must show to whom the tenders should be returned.

When details of the expected tender are received, a sheet is completed in the yellow ring binders kept in the metal cupboard. The originating officer’s memo/e-mail is also attached.

Tenders valued at over £100,000 must be opened by the appropriate portfolio holder (or the Leader or another portfolio holder) in the presence of a DS officer. Therefore the portfolio holder must be contacted to check that they can come to the office at or after 2.00pm on the day the tenders are due to be returned. It is often helpful to have the originating officer present for these tender openings as the documentation can be complicated.

As tender documents are returned to the Council offices they will be received either by the Mail room staff or the Reception staff. These officers will write the date and time of receipt on the covering envelope and their signature. Democratic Support Officers **must record** the receipt of each envelope on the numbered sheet in the folder, number the covering envelopes in order of receipt and store the tenders securely in the metal cabinet until opening. Any markings on the envelope which identify the firm or company who has tendered must be removed or blanked out.

On the due date for return of the tender documents, a Democratic Support Officer must immediately after 2.00 pm check with reception staff and post room staff to see if there are any documents received but not yet delivered.

The opening procedure is:

The Portfolio Holder opens the envelopes in the order in which they have been received. On the summary of tender page, or whichever page shows the total figure, the rubber stamp

*Opened by .....*  
*In the presence of .....*  
*DATE .....*

must be imprinted together with the number from the covering envelope.

The person opening signs in the *Opened by* space, completes the date and reads the name of the tendering firm and the total amount to the accompanying officer who enters these details in the numbered sheet.

When all tenders have been opened and the details entered, the accompanying officer reads back to the person doing the opening the names and amounts which have been entered on the sheet for confirmation of accuracy with the original document. The person opening initials the final box on the numbered sheet against each entry and the accompanying officer signs at the foot of the page against *In the presence of*.

The originating officer must also sign at the foot of the page against *Handed to* before taking away the opened tender documents.

The completed pages and attached documents are then moved to the other yellow folder which is the register of tenders received. At the end of the Council year the register folder is emptied and the documents tied together and stored in the legal strong room.

In the event of a tender document arriving after the 2.00 pm deadline IT WILL NOT BE ACCEPTED. The envelope must be opened by a Democratic Support Officer to identify the sender and the envelope and contents returned to the sender with a covering letter stating that the document had been received after the 2.00 pm deadline and could therefore not be accepted. A note to this effect is then added on the sheet which was completed with the correctly submitted tenders.

# Officer Employment Procedure Rules

## 1. 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) Subject to paragraph 3, 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) Subject to paragraph 3, no councillor will seek support for any person for any appointment with the Council.

## 2. 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. Appointment of head of paid service

*This process will be subject to any mandatory standing orders.*

- (a) The full Council will approve the appointment of the head of paid service following the recommendation of such an appointment by a committee or sub-committee of

the Council. That committee or sub-committee must include at least one member of the executive.

- (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 executive.

#### 4. **Appointment of chief officers**

*This process will be subject to any mandatory standing orders.*

- (a) A committee or sub-committee of the Council will appoint chief officers. That committee or sub-committee must include at least one member of the executive.
- (b) An offer of employment as a chief officer shall only be made where no well-founded objection from any member of the executive has been received.

NB Chief officer posts shall be:

Chief Executive  
Director of Regeneration and Development  
Director of Environment and Corporate Assets  
Director of Finance, Housing and Community  
Director of Governance

#### 5. **Other appointments**

- (a) **Officers below chief officer.** Appointments of officers below chief officer (other than assistants to political groups and an assistant to the mayor) 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. **Disciplinary action**

- (a) **Suspension.** The head of paid service, monitoring officer and Section 151 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 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. **Dismissal**

Councillors will not be involved in the dismissal of any officer below 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.

*Reference:  
Chapters 8 and 9, DETR Guidance*

## **Prescribed Standing Orders**

The following Standing Orders shall be known as 'Prescribed Standing Orders' and shall form part of the Council's Standing Orders.

### **Part I**

#### **Standing Orders relating to Staff**

##### **1. Appointment of Chief Officers**

Where the Council proposes to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among its existing officers, it shall:

- (1) draw up a statement specifying:
  - (a) the duties of the Officer concerned, and
  - (b) any qualifications or qualities to be sought in the person to be appointed;
- (2) 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
- (3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.
- (4) Where a post has been advertised as provided in paragraph (2) the Council 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.
- (5) Where no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with paragraph (2).
- (6) The steps under paragraphs (1) to (5) above may be taken by a Committee, Sub-Committee or Chief Officer of the Council if duly authorised in that behalf.
- (7) Every appointment of a Chief Officer shall be made by the Council, unless made by any duly authorised Committee or Sub-Committee of the Council, or a relevant joint Committee.
- (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 paragraphs (1) to (5) above may be taken by any duly authorised joint committee of those authorities, a sub-committee of that 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, a sub-committee of that committee or a committee or sub-committee of any of those authorities
- (9) Excluded from the application of paragraphs (1) to (5) shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

(Note: Any word or phrase contained within this standing order 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 this standing order.)

## 2. **Disciplinary Action**

- (1) No disciplinary action in respect of the head of the Council's paid service (unless he or she is also a council manager of the authority), its monitoring officer, or its Chief Finance Officer, except joint action described in paragraph (2), may be taken by the Council, or by a Committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- (2) The action mentioned in paragraph (1) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

(Note: In this standing order "Chief Finance Officer", "council manager", "disciplinary action", "head of authority's paid service" and "monitoring officer", shall have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and "designated independent person" has the same meaning as in Regulation 7 of those Regulations.)

## 3. **Executive Arrangements**

- (1) In this Standing Order:

"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 Head of East Kent Human Resources Partnership 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 or 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 or dismissal 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 him or her, or, as the case may be, must approve that dismissal before notice of dismissal is given to him or her.
  - (2) 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 appointor that neither he or 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 or 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 dismissoir 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 dismissoir that neither he or she nor any other member of the executive has any objection to the dismissal;
    - (ii) the proper officer has notified the dismissoir that no objection was received by him or her within that period from the executive leader; or
    - (iii) the dismissoir 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 II**

### **Standing Orders relating to Meetings and Proceedings**

#### **4. Recording of Votes**

- (a) 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 vote for the question or against the question or whether he or she abstained from voting.
- (b) 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.

#### **5. Signing Minutes – Extraordinary Meetings**

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 4(1) and (2) (signing of minutes) of that Schedule.

### **Part III**

#### **Standing Orders relating to Assistants for Political Groups**

6. (a) No appointment shall be made to any post allocated to a political group (in accordance with Section 9 of the Local Government and Housing Act 1989) until the authority has allocated a post to each of the groups which qualify for one;
- (b) No allocation of such a post to a political group shall be made if the political group does not qualify for one;
- (c) No more than one post shall be allocated to any one political group.

### **Part IV**

#### **Standing Orders relating to Executive Plans, Strategies and Estimates**

7. 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.

8. 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.
9. 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 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 or her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

10. 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.
11. 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 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.

12. Subject to paragraph 10, where, before 8 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 or 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.

13. 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 or her instructions requiring the executive to reconsider, in the light of

those objections, those estimates and amounts in accordance with the authority's requirements.

14. 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.
15. 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.

16. 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 V**

### **Variation and Revocation**

17. Otherwise than to incorporate options allowed by the Regulations these Prescribed Standing Orders shall not be revoked or amended.

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## Part 5

### Codes and Protocols

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# Dover District Council

## Kent Code of Conduct for Members

### Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) 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.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) 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.
- (E) 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:
  - (a) 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
  - (b) Fail to disclose the interest at meetings where the interest is not entered in the authority's register
  - (c) 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
  - (d) 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.
  - (e) 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.
  - (f) 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.
  - (g) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) 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.

## THE CODE

### 1. Interpretation

In this Code:

**"Associated Person"** means (either in the singular or in the plural):

- (a) a family member or any other person [or body?] 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 you or such persons, any firm in which you or they are a partner, or any company of which you or they are directors; or
- (c) any person or body in whom you or 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:
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**"Authority"** means Dover 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 a member of the Authority and includes a Co-opted Member.

**"Other Significant Interest"** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of:
  - (i) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest 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.

## Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

## 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).
  
- (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:
      - reasonable and in the public interest; and
      - 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.

## 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.
  
- (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.

- (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.

## Declaring 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.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant 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 or are acting under paragraph 5(4):
  - (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.
- (3) Where you have a Disclosable Pecuniary Interest or Other 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.
- (4) Where you have an Other 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.

## **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.
- (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.
- (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.

## **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 £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 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.
- (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 an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (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.
- (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.

## **Dispensations**

8. (1) The [Standards] Committee, or any sub-committee of 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).

- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the [Standards] Committee, its sub-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.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (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.



## 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.

**SELFLESSNESS:** You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

**INTEGRITY:** You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

**ACCOUNTABILITY:** You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

**OPENNESS:** You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

**HONESTY:** You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

The descriptions on Disclosable Pecuniary Interests 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

Interest	Description
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

Interest	Description
	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.

## **Officers' Code of Conduct**

The Secretary of State may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in England (Section 82 Local Government Act 2000). A draft code has not yet been published for consultation in accordance with the Act. A copy of the officers' code of conduct will be included in the Constitution once it is published and adopted. It is already a condition of employment of all employees of the Council to adhere to the non-statutory code of conduct recommended by the Local Government Management Board.

# Protocol for Relationships between Members and Officers of a Local Authority

## Preamble

1. Mutual trust and respect between members and officers is at the heart of a council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed.
2. This may seem obvious. But what happens when relationships go awry? Where can members and officers turn for guidance? What mechanisms exist for addressing concerns? How can matters be improved?
3. Such questions point to the need for a written guide to the basic elements of the relationship between members and officers – a protocol:
  - to promote trust, openness, fairness and honesty by establishing some ground rules;
  - to define roles so as:
    - to clarify responsibilities (ie who does what),
    - to avoid conflict, and
    - to prevent duplication or omission;
  - to secure compliance with the law, codes of conduct and a council's own practices; and
  - to lay down procedures for dealing with concerns by members or officers.
4. A protocol should be recognised both as a central element of a council's corporate governance, and as a commitment to upholding standards of conduct in public life. It is one way of demonstrating to the public at large that local government is serious about protecting and enhancing its integrity and reputation.

## Definitions

5. Unless the context indicates otherwise, references to the term *Council* include the Executive, overview and scrutiny committees, and other committees and sub-committees.
6. For the purposes of this protocol, the term *Executive* refers to the Leader and Cabinet.
7. Unless the context indicates otherwise, the terms *member* and *members* include non-elected (ie co-opted) members as well as elected councillors.
8. *Officers* and *staff* mean all persons employed by the Council.
9. *Senior officer* means all chief officers (including statutory officers) and service heads and managers.
10. *Chief Finance Officer* means the officer exercising the duties prescribed by law for the financial administration of the Council.

## Principles

11. Members and officers must at all times observe this protocol.
12. The protocol has been approved by the Council's Standards Committee who will monitor its operation.
13. The protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
14. 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 unfair advantage by virtue of their position.
15. Whilst members and officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. 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.
16. The Council has adopted codes of conduct for both members and officers. Both represent best practice. The members' code follows the national code which in turn is based on the general principles governing members' conduct enshrined in law, viz:
  - Selflessness – serving only the public interest.
  - Honesty and integrity – not allowing these to be questioned; not behaving improperly.
  - Objectivity – taking decisions on merit.
  - Accountability – to the public; being open to scrutiny.
  - Openness – giving reasons for decisions.
  - Personal judgement – reaching one's own conclusions and acting accordingly.
  - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member, as well as member/officer).
  - Duty to uphold the law – not acting unlawfully.
  - Stewardship – ensuring the prudent use of a council's resources.
  - Leadership – acting in a way which has public confidence.
17. These principles underpin this protocol. They will also be reflected in a new national code of conduct for employees due in the near future and on which the Office of the Deputy Prime Minister began a three months' consultation period in August 2004.
18. Until such time as a new national code appears, officers are bound by the Council's own code of conduct for staff and, in some cases, by the codes of their professional associations.
19. Breaches of this protocol by a member may result in a complaint to the Standards for England if it appears the members' code has also been breached. Breaches by an officer may lead to disciplinary action.

## The role of members

20. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
21. Collectively, members are the ultimate policy-makers determining the core values of the Council and approving the authority's policy framework, strategic plans and budget.
22. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.
23. Every elected-member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.
24. Some members have roles relating to their position as members of the Executive, overview and scrutiny committees or other committees and sub-committees of the Council.
25. Members of the Executive can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of officers.
26. Members serving on overview and scrutiny and governance committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.
27. Members who serve on other committees and sub-committees collectively have delegated responsibilities, eg deciding quasi-judicial matters which by law are excluded from the remit of the Executive.
28. Some members may be appointed to represent the Council on local, regional or national bodies.
29. As politicians, members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
30. Members are not authorised to instruct officers other than:
  - through the formal decision-making process;
  - to request the provision of consumable resources provided by the Council for members' use; and
  - where staff have been specifically allocated to give support to a member or group of members.
31. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
32. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their code of conduct to

have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Finance Officer.

33. Members must respect the impartiality of officers and do nothing to compromise it, eg by insisting that an officer change his/her professional advice.
34. Members have a duty under their code of conduct:
  - to promote equality by not discriminating unlawfully against any person, and
  - to treat others with respect.
35. Under the code, a member must not when acting as a member or in any other capacity:
  - bring the Council or his/her position as a member into disrepute, or
  - use his/her position as a member improperly to gain an advantage or disadvantage for his/herself or any other person.

### **The role of officers**

36. 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.
37. Under the direction and control of the Council (including, as appropriate, the Executive, committees and sub-committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
38. Officers have a duty to implement decisions of the Council, the Executive, committees and sub-committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
39. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
40. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
41. 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.
42. Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

### **The relationship between members and officers: general**

43. The conduct of members and officers should be such as to instil mutual confidence and trust.



44. The key elements are a 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.
45. Informal and collaborative two-way contact between members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
46. Members and officers should inform the Chief Executive or the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
47. 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.
48. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.
49. With the exception of political assistants (if any), officers work to the instructions of their senior officers, not individual members. It follows that, whilst such officers will always seek to assist a member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to a senior officer, at least in the first instance.
50. Officers will do their best to give timely responses to members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities.
51. Members will endeavour to give timely responses to enquiries from officers.
52. An officer shall not discuss with a member personal matters concerning him/herself or another individual employee. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.
53. Members and officers should respect each other's free (ie non-Council) time.

### **The Council as employer**

54. Officers are employed by the Council as a whole.
55. Members' roles are limited to:
  - the appointment of specified senior posts,
  - determining human resources policies and conditions of employment,
  - the appointment of any political assistants, and
  - hearing and determining appeals.

56. Members shall not act outside these roles.
57. If participating in the appointment of officers, members should:
- remember that the sole criterion is merit (other than in the case of political assistants where political considerations may apply),
  - never canvass support for a particular candidate,
  - not take part where one of the candidates is a close friend or relative,
  - not be influenced by personal preferences, and
  - not favour a candidate by giving him/her information not available to the other candidates.
58. A member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the member has had a working relationship.

### **Chairman and officers**

59. Officers will respect the position of Chairman and provide appropriate support.

### **Executive members and officers**

60. Executive members will take decisions in accordance with the constitution and will not otherwise direct staff. Senior officers will be responsible for instructing staff to implement the Executive's decisions.
61. In addition to individual members of the Executive, senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to submit papers to the Executive as a whole or to individual Executive members for consideration.
62. Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and Chief Finance Officer, and will not direct officers in the framing of recommendations.
63. Before any formal decisions with a financial implication are taken by the Executive, the Chief Finance Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:
- are aware of the proposed decision,
  - have the opportunity to offer advice, and
  - are subsequently able properly to authorise the financial transactions needed to implement decisions.
64. An individual Executive 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 so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.

65. Executive members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
66. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

### **Overview and scrutiny members and officers**

67. Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall 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.
68. An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
69. When making requests for officer attendance, overview and scrutiny members shall have regard to the workload of officers.
70. It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council's dedicated overview and scrutiny support unit or externally.
71. Subject to 70 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees and sub-committees even when the advice was not accepted.
72. Officers must also be prepared to justify decisions they have taken under delegated powers.
73. In giving evidence, officers must not be asked to give political views.
74. Officers should respect members in the way they respond to members' questions.
75. Members should not question officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
76. Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

77. In exercising the right to call-in a decision of the Executive, overview and scrutiny members must seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

#### **Members of other committees or sub-committees and officers**

78. The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of committees and sub-committees.
79. Senior officers (including the Monitoring Officer and the Chief Finance Officer) have the right to present reports and give advice to committees and sub-committees.
80. Members of a committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
81. At some committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

#### **Party groups and officers**

82. Senior officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.
83. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not members of the Council.
84. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. 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 when such matters are to be discussed.
85. Party 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 an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
86. Where officers provide factual information and advice to a party 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.
87. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
88. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of

such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

89. In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
90. Members must not do anything which compromises or is likely to compromise officers' impartiality.
91. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
92. An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
93. An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf.
94. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
95. No member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
96. At party 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.
97. Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive or Monitoring Officer and the relevant party group leader.

### **Local members and officers**

98. To enable them to carry out their ward role effectively, members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local members informed, thus allowing members to contribute to the decision making process and develop their representative role.
99. This requirement is particularly important:
  - during the formative stages of policy development, where practicable,
  - in relation to significant or sensitive operational matters,
  - whenever any form of public consultation exercise is undertaken, and
  - during an overview and scrutiny investigation.
100. Generally, officers should copy ward members into communications with Town and Parish Councils so that ward members receive this information in a timely fashion and have the

opportunity to talk to the originating officer if they so wish to ensure that they are appropriately briefed.

101. Issues may affect a single ward. Where they have a wider impact, a number of local members will need to be kept informed.
102. Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the wards affected should be invited to attend the meeting as a matter of course.
103. If a local member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided the meeting has not been arranged on a party political basis:
  - an officer may attend but is not obliged to do so, and
  - the meeting may be held in Council-owned premises.
104. Care must be taken in arranging such public meetings in the immediate run-up to Council elections. Regard should always be had to any guidance issued by the Monitoring Officer from time to time.
105. Whilst support for members' ward work is legitimate, care should be taken if staff are asked to accompany members to ward surgeries. In such circumstances:
  - the surgeries must be open to the general public, and
  - officers should not be requested to accompany members to surgeries held in the offices or premises of political parties.
106. Officers must never be asked to attend ward or constituency political party meetings.
107. It is acknowledged that some Council staff (eg those providing dedicated support to Executive members) may receive and handle messages for members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
108. In seeking to deal with constituents' 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 managers.

### **Members' access to documents and information**

109. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution.
110. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- it is in the public domain, and
  - it is not barred by the Data Protection Act from being given.
111. Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive.
112. A member who is not a member of a specific overview and scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- he/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a member (the "need to know" principle), and
  - the documents do not contain "confidential" or "exempt" information as defined by the law.
113. Disputes as to the validity of a member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a member's request.
114. A member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act, or
  - where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the members' code of conduct.
115. Information given to a member must only be used for the purpose for which it was requested.
116. It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
117. Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
118. When requested to do so, officers will keep confidential from other members advice requested by a member.
119. Members and officers must not prevent another person from gaining access to information to which that person is entitled by law.

### **Media relations**

120. All formal relations with the media must be conducted in accordance with the Council's Media Policy and the law on local authority publicity.
121. 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.

122. Officers will keep relevant members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.
123. Before responding to enquiries from the media, officers shall ensure they are authorised to do so.
124. Likewise, officers will inform the Council's Press Office of issues likely to be of media interest, since that unit is often the media's first point of contact.
125. If a member is contacted by, or contacts, the media on an issue, he/she should:
  - indicate in what capacity he/she is speaking (eg as ward member, in a personal capacity, as an Executive member, on behalf of the Council, or on behalf of a party group);
  - be sure of what he/she wants to say or not to say;
  - if necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Press Office and/or relevant senior officer, except in relation to a statement which is party political in nature;
  - consider the likely consequences for the Council of his/her statement (eg commitment to a particular course of action, image, allegations of jumping to conclusions);
  - 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 he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

### **Correspondence**

126. 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, ie there should be no "blind" copies.
127. Official letters written on behalf of the Council should normally be in the name of the relevant officer. It may be appropriate in some circumstances (eg representations to a Government Minister) for letters to appear in the name of an Executive member or the chairman of an overview and scrutiny committee.
128. The Chairman may initiate correspondence in his/her own name.
129. 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.
130. When writing in an individual capacity as a ward member, a member must make clear that fact.

### **Access to premises**



131. Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
132. Members have a right of access to Council land and premises to fulfil their duties.
133. When making visits as individual members, members should:
- whenever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - comply with health and safety, security and other workplace rules;
  - not interfere with the services or activities being provided at the time of the visit;
  - if outside his/her own ward, notify the ward member(s) beforehand; and
  - take special care at schools and establishments serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

### **Use of Council resources**

134. The Council provides all members with services such as typing, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.
135. Members should ensure 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's expense;
  - in relation to any locally-agreed arrangements eg payment for private photocopying; and
  - regarding ICT security.
136. Members should not put pressure on staff 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 to a member in his/her capacity as a councillor of another local authority.

### **Interpretation, complaints and allegations of breaches**

137. This part of the protocol should be read in conjunction with any "whistleblowing" policy the Council may have.

138. Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
139. A member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the officer at all times,
  - ensure that any criticism is well founded and constructive,
  - never make a criticism in public, and
  - take up the concern with the officer privately.
140. If direct discussion with the officer is inappropriate (eg because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant senior officer.
141. A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure.
142. An officer who believes a member may have acted other than in accordance with this protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may involve alleged breaches of the members' code of conduct, and may be referred to the Standards for England.

# Members' Planning Code of Good Practice

## Foreword

### Purpose and Status

This planning Code of Good Practice has been adopted by the Council as a public guide to the conduct of all the District's Councillors and as a guide to some procedures of the Planning Committee. It has been approved by the Council's Governance Committee and Standards Committee and it was adopted by the Council on 22 October 2008. The Monitoring Officer has been given delegated authority to make minor changes to the Members' Planning Code of Good Practice following its adoption by Council.

This Planning Code of Good Practice comprises:

- This Foreword
- The Dover District Council Members' Planning Code of Good Practice
- Appendix A: Representations and Submissions of Information to the Planning Committee
- Appendix B: Protocol for Public Speaking at Planning Committee
- Appendix C: Guidelines for Committee Deferral for a Site Visit
- Appendix D: Site Visit Procedure
- Appendix E: Positive Engagement – A Guide for Planning Councillors

This Planning Code of Good Practice will be made available to the public free of charge and will continue to be kept under regular review.

This Planning Code of Good Practice provides a measure against which the Council's operation of the planning system is to be judged. Adherence to this Code should reduce cause for complaint by the public. However, when complaints are made they will be assessed for a breach of the Codes of Conduct and a breach of this Planning Code of Good Practice. Complaints that involve an alleged breach of the Members' Code of Conduct will be referred to the Standards Committee. Similarly, The Council's Standards Committee will deal with complaints that involve only an alleged breach of this Planning Code of Good Practice. Failure to abide by the Planning Code of Good Practice is likely to result in a complaint being upheld. Similarly, breaches of the Protocol may provide grounds for a finding of maladministration by the Ombudsmen.

### The Human Rights Act

The Human Rights Act 1998, and in particular Article 6, is concerned with guaranteeing procedural fairness in the determination of civil rights and obligations, especially the entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal. These principles are at the heart of the planning system. Full regard has been paid to the Human Rights Act 1998 in drawing up this Members' Planning Code of Good Practice and adherence to this Planning Code of Good Practice should help to ensure that these principles are translated into the day-to-day operation of the system and that there are no breaches of the Act.

Should any Councillors, members of staff, or of the public, have any queries about the operation of the Members' Planning Code of Good Practice they should contact the Director of Regeneration and Development, the Head of Development Management or the Monitoring Officer.



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## MEMBERS' PLANNING CODE or PROTOCOL

### Background

*This Code is **substantially** as per the 2013 model issued by Lawyers in Local Government (LLG) but amended to reflect local circumstances.*

The Members' Planning Code of Good Practice was originally prepared in response to a series of successful court challenges concerning themselves with local planning authorities and the Members' conduct or conflicts of interests. It replaced what was a number of individual and sometimes haphazard approaches in individual councils at the time.

The drafting of the model code was subject to consultation and comment from a number of local authorities through the machinery of the Association of Council Secretaries and Solicitors (now LLG), the Local Government Association, the Local Government Ombudsman, Audit Commission and from firms of solicitors or counsel acting on their behalf.

This 2013 update takes into account the update to the the Seven Principles of Public Life (the 'Nolan principles') and commentary from the Committee on standards in public life, the changes in the approach to codes of conduct and also to predetermination introduced by the Localism Act 2011 and the guide on 'Openness and transparency on personal interests' published by the Department for Communities and Local Government 2013.

For further reading please refer to 'Probity in Planning' issued by the Local Government Association.

### Introduction

**The aim of this Code:** to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.

One of the key purposes of the planning system is to regulate the development and use of land in the public interest. **Your role as a Member of the Planning Authority is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.** You are also a democratically accountable decision-taker who had been elected to provide

and pursue policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies **provided** that you have considered all material considerations and have given fair consideration to relevant points raised.

**When the Code applies:** this code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his staff, and preferably well before any meeting takes place.**

## 1. Relationship to the Members' Code of Conduct

- **Do** apply the rules in the Members' Code of Conduct first, which must always be complied with. This is both the rules on interest, Disclosable Pecuniary Interests (DPIs) and any other interests identified by your Authority, and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- **Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Members' Code of Conduct and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:
  - the Council at risk of proceedings on the legality of the related decision or maladministration; and
  - yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

## 2. Development Proposals and Personal Interests

- **Do** disclose the existence and nature of your interest as required by your Authority's Member Code of Conduct.
- **Do take into account when approaching a decision** that the Principle of Integrity is defined in terms that:  
*"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**".*

It is therefore advisable that you:

- Don't seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.
- Do note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a councillor may place additional limitations on you in representing the proposal in which you have a personal interest.
- Do notify the Monitoring Officer in writing where it is clear to you that you have a disclosable pecuniary interest or other personal conflict of interest and note that:
  - you should send the notification no later than submission of that application where you can;
  - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers;
  - you must not get involved in the processing of the application; and
  - it is advisable that you employ an agent to act on your behalf in respect of the proposal when dealing with officers and in public speaking at Committee.

### 3. Fettering Discretion in the Planning Process

(natural justice, predisposition and predetermination)

- Don't fetter your discretion by approaching the decision with a closed mind.
- Do be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.
- Do keep at the front of your mind that, when you come to make the decision, you
  - are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;
  - must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;
  - are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;
  - are only entitled to take account a material consideration and must disregard considerations irrelevant to the question and legal context at hand; and
  - are to come to a decision after giving what you feel is the right weight to those material considerations.
- Do be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and



planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- Do consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district/borough and county councillor), provided:
  - the proposal does not substantially effect the well being or financial standing of the consultee body;
  - you make it clear to the consultee body that:
    - your views are expressed on the limited information before you only;
    - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information; and
  - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee.
- Do explain that you do not intend to speak and vote as a member of the Committee because you will be perceived as having judged (or you reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes. (Use the disclosure form provided for disclosing interests.)
- Do take the opportunity to exercise your separate speaking rights as a Ward/Local Member (where this is granted by the authority's standing orders or by the consent from the Chair and Committee) where you have represented your views or those of local electors and fettered your discretion, but do not have a disclosable or other personal conflict of interest. Where you do:
  - advise the proper officer or Chair that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the seating area for members of the Committee for the duration of that item; and
  - ensure that your actions are recorded.

#### 4. Contact with Applicants, Developers and Objectors

- Do refer those who approach you for planning, procedural or technical advice to officers.
- Don't agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Head of Regeneration and Development to organise it. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- Do otherwise:
  - follow the Authority's rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes

when contacted; and

- report to the Head of Regeneration and Development any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**In addition in respect of presentations by applicants/developers:**

- Don't attend a planning presentation without requesting an officer to be present.
- Do ask relevant questions for the purposes of clarifying your understanding of the proposals.
- Do remember that the presentation is not part of the formal process of debate and determination of any subsequent application, this will be carried out by the appropriate Committee of the planning authority.
- Do be aware that a presentation is a form of lobbying and, whilst you may express any view on the merits or otherwise of the proposal presented, you should never state how you or other Members would intend to vote at a committee.

**5. Lobbying of Councillors**

- Do explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or such a firm point of view that it amounts to the same thing.
- Do remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- Don't accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.
- Do copy or pass on any lobbying correspondence you receive to the Head of Regeneration and Development at the earliest opportunity.
- Do promptly refer to the Head of Regeneration and Development any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- Do inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).
- Do note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:

- listening or receiving viewpoints from residents or other interested parties;
- making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a Ward Member.

## **6. Lobbying by Councillors**

- Don't become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and will therefore step away from the Committee when it comes to make its decision.
- Do join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society), but you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.
- Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken
- Don't decide or discuss how to vote on any application at any political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

## **7. Site Visits/Inspections**

- Do try to attend site visits organised by the Council where possible.
- Don't request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- Do ensure that you report back to the Committee any information gained from the site visit that you feel would benefit all Members of the Committee
- Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- Do ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

- Don't hear representations from any other party otherwise in accordance with the Site Visit Procedure (Appendix D). Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- Don't express opinions or views.
- Don't enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first discussed with the Head of Regeneration and Development your intention to do so and why (which will be recorded on the file) and
  - you can ensure you will comply with these good practice rules on site visits.

## 8. Public Speaking at Meetings

- Don't allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking or through the Chairman, as this may give the appearance of bias.
- Do ensure that you comply with the Council's procedures in respect of public speaking.

## 9. Officers

- Don't put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Regeneration and Development, which may be incorporated into any committee report).
- Do recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- Do recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 10. Decision Making

- Do ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your planning reasons are recorded and

repeated in the report to the Committee.

- Do come to meetings with an open mind and demonstrate that you are open-minded.
- Do comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- Do come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, request that further information. If necessary, defer or refuse.
- Don't vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.
- Do have recorded the reasons for Committee's decision to defer any proposal.
- Do make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## **11. Training**

- The Council's Constitution does not allow you to participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.
- Do participate in any review of a sample of planning decisions to ensure that Members' judgements have been based on proper planning considerations.

## APPENDIX A

### **Representations and Submissions of Information to the Planning Committee**

1. This Appendix only relates to applications for planning and related approvals.
2. Letters from third parties, which are received otherwise than as a response to formal public consultation, will be taken into account but will not be considered as public representations for the purposes of the Committee report or determining whether the decision may be made under the scheme of delegation.
3. Only those points which are material planning considerations will be reported to Committee and taken into account in decision making.
4. Only representations which are material planning considerations will be taken into account in the operation of the scheme of delegation of powers to the Director of Regeneration and Development, Head of Development Management or Regeneration Delivery Manager.
5. Applications to regularise development received as a result of a complaint, will be determined in accordance with the scheme of delegation.
6. Plans and correspondence received within 48 hours of the scheduled start of a meeting of the Planning Committee will not be considered at that meeting unless, in the opinion of the Director of Regeneration and Development, Head of Development Management or Regeneration Delivery Manager, it would be expedient to do so, for example, because the representation raises a new material consideration.
7. Representations received subsequent to a Committee resolution on an application but prior to the despatch of the decision will be dealt with in the following way:
  - (a) no action will be taken if the Director of Regeneration and Development, Head of Development Management or Regeneration Delivery Manager is satisfied that they do not raise any material issues additional to those already considered; and
  - (b) if the Director of Regeneration and Development, Head of Development Management or Regeneration Delivery Manager is satisfied that they do raise new material issues, the application will be reported back to the next available meeting of the Committee.

### **Protocol for Public Speaking at Planning Committee**

1. The scheme for public speaking at Planning Committee only concerns matters relating to the determination of individual applications for planning permission contained in the Planning Committee agenda and not to other matters including Tree Preservation Orders or Enforcement matters.
2. The scheme for public speaking will apply at each meeting where an individual application for planning permission is considered by the Planning Committee.
3. Any person wishing to speak at the Planning Committee should submit a written request using a form provided by the Council and indicating whether the speaker is in favour of, or opposed to, the planning application.
3. The period of notice shall be not later than two working days prior to the meeting of the Planning Committee.
4. Speaking opportunities shall be allocated on a first come, first served basis but with the applicant being given first chance of supporting the scheme. Applicants or agents will be notified of requests to speak. Third Parties who have applied to speak will be notified of other requests only when these directly affect their application to speak. The identified speaker may defer to another at the discretion of the Chairman of the Committee.
5. One person shall be allowed to speak in favour of, and one person shall be allowed to speak against, each application. The maximum time limit will be three minutes per speaker. This does not affect a person's right to speak at a site visit if the Committee decides one should be held.
6. The procedure to be followed when members of the public address the Committee shall be as follows:
  - (a) Chairman introduces item
  - (b) Planning Officer updates as appropriate
  - (c) Chairman invites members of the public and Ward Councillor(s) to speak, with the applicant or supporter last
  - (d) Planning officer clarifies as appropriate
  - (e) Committee debates the application
  - (f) The vote is taken
7. In addition to the arrangements outlined in 5 above, District Councillors, who are not Members of the Committee may be permitted to address the Planning Committee for three minutes in relation to planning applications in their Ward. This is subject to giving formal written notice of not less than two working days and of advising whether they are for, or against, the proposals. In the interests of balance, a further three



minutes' representation on the contrary point of view will be allowed from the identified speaker, or an additional speaker. If other District Councillors wish to speak, having given similar notice and with the agreement of the Chairman, this opportunity will be further extended as appropriate.

8. Agenda items will be taken in the order listed.
9. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed necessary.

**Guidelines for Committee Deferral for a Site Visit**

1. All requests for site visits will be considered on their merits having regard to the likely usefulness to the Committee in reaching a decision.
2. The following criteria will be used to determine usefulness;
  - (a) the matter can only be safely determined after information has been acquired directly from inspecting the site;
  - (b) there is a need to further involve the public in the decision making process as a result of substantial local interest, based on material planning considerations, in the proposals; and
  - (c) the comments of the applicant or an objector cannot be adequately expressed in writing because of age, infirmity or illiteracy.
3. The reasons for holding a Committee site visit must be recorded in the minutes.
4. The Committee will appoint a Site Visit Panel and a Chairman, also to be recorded in the minutes.
5. The purpose of the Panel is to gather information and opinion, and report its findings to the Committee.

### **Site Visit Procedure**

1. The Committee will invite the Applicant and/or his representatives, those who made representations for or against the proposal, Ward Councillors, and Town/Parish Council representatives to attend.
2. Parish/Town Councils will be sent a copy of a notice with a request that it be displayed on their noticeboards to give other interested parties the opportunity to attend.
3. The Chairman (appointed by the Committee) will introduce Members and Officers of the Council, outline the procedures, and invite the Applicants, Parish Councils and interested parties to introduce themselves.
4. The Planning Officer will explain the planning policies and material considerations relating to the application and the reason for the site visit followed, if appropriate, by comments from any other relevant Council Officer.
5. The Parish/Town Council representatives will then be invited to state their Council's views.
6. Those making representations will be invited to state their grounds of objection/support. Each person will be given the opportunity to speak once and asked to keep to the matter under consideration and to not repeat views expressed by other speakers.
7. The Ward Councillor will be invited to raise any points.
8. Members of the Panel will be invited to seek any further information or clarification but should not express a view on the merits of the case.
9. The Applicant or Agent will be invited to put forward points and answer any questions raised. The Chairman may permit any person or officer to speak again in order to clarify points raised.
10. Members of the Panel will be given a final opportunity to seek information.
11. If all relevant aspects of the plans, the site and its surroundings have not already been seen, the Panel will inspect them.
12. Members of the Panel will then retire to consider their views on the application in the light of the additional information obtained and to agree their report to the next meeting of the Planning Committee.
13. The Chairman may, in exceptional circumstances, alter or amend this procedure as deemed appropriate.
14. At the next meeting of the Planning Committee the Planning Officer will make an oral report on the site visit having regard to any additional information received and

including both the majority and any minority views of the Panel; the matter will then be open to Committee to debate.

# positive engagement

a guide for planning councillors  
updated version



'The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.'

# positive engagement

## a guide for planning councillors

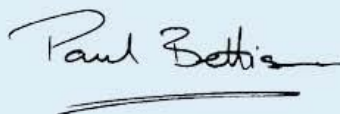
A message from **Iain Wright MP Parliamentary Under Secretary of State, DCLG** and **Paul Bettison, Environment Board Chairman, LGA**.

There have been some considerable changes over the last few years in how the planning process is delivered within England with a move away from an often adversarial, reactive and conflict based system towards a more pro-active, inclusive and creative approach.

As a local councillor involved in planning matters, whether as a ward councillor representing your area's constituents as a councillor responsible for drawing up the spatial plan for your area, or as a councillor responsible for deciding upon application you have a crucial role to play in both making the planning system work and ensuring the best possible outcomes for your community for both now and in the future. The engagement of local councillors as leaders and representatives of the community is vital in the delivery of positive outcomes from the planning process.

However, concerns are sometimes expressed about the compatibility of councillors meeting developers and interest groups and then taking decisions on an impartial basis.

This leaflet is an updated version of the positive engagement for elected members launched in 2005. It is intended to summarise the principles that should be observed to enable you to both participate in and lead the system.'



Paul Bettison



Iain Wright

In broad terms, the success of the planning system will depend on:

- establishing and taking forward a clear spatial vision for the area based on the sustainable community strategy
- effective dialogue between applicants, local authority, local people and other interests to help define and realise the vision
- ensuring that the spatial plan for an area embodies the aspirations of the community
- effective communication and ownership of policy between executive and planning committee
- the planning service being focused on outcomes
- early and effective community engagement in discussions on plans and development proposals, in accordance with the authority's Statement of Community Involvement.
- upholding the ACSeS Model Members Planning Code

As a community leader and local representative you will want to be involved in relevant public meetings, pre-application discussions and policy production. However, this may create some risks for councillors, particularly those who are members of the planning committee, and for the integrity of the decision making process. You should familiarise yourself with guidance found in the LGA guide *Probity in Planning (update)* – the role of councillors and officers, guidance from the Standards Board for England which provides an overview of the Model Code of Conduct which applies to all members and co-opted members of local authorities and the ACSeS Model Members Planning Code. (see the weblinks at the end of this leaflet).



Councillors can involve themselves in discussions with developers, their constituents and others about planning matters. However, difficulties can be avoided if you follow these useful general hints:

## do

- ✓ always involve officers and structure discussions with developers
- ✓ inform officers about any approaches made to you and seek advice
- ✓ familiarise yourself with your authority's Code of Conduct and follow it when you are representing your authority
- ✓ keep your register of interests up to date
- ✓ follow your local authority's planning code
- ✓ be aware of what predisposition, predetermination and bias mean in your role – ask your monitoring or planning officer and refer to the Standards Board Occasional Paper on Predetermination, Predisposition and Bias if unsure
- ✓ be prepared to hold discussions with an applicant and your officers before a planning application is made, not just after it has been submitted to your authority
- ✓ preface any discussion with disclaimers; keep a note of meetings and calls; and make clear at the outset that discussions are not binding
- ✓ be aware of what personal and prejudicial interests are – refer to your monitoring officer and the Standards Board's website if you are unsure
- ✓ recognise the distinction between giving advice and engaging in negotiation and when this is appropriate in your role
- ✓ stick to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- ✓ use meetings to show leadership and vision
- ✓ encourage positive outcomes
- ✓ ask for training from your authority in probity matters
- ✓ recognise that you can lobby and campaign but that this may remove you from the decision making process
- ✓ feed in both your own and your local community's concerns and issues
- ✓ be aware that you can engage in discussions but you must have and be seen to have an open mind at the point of decision making





## weblinks

### **The Association of Council Secretaries and Solicitors**

Model Members Planning Code  
[www.acses.org.uk/documents/category/4](http://www.acses.org.uk/documents/category/4)

### **Department of Communities and Local Government**

[www.communities.gov.uk](http://www.communities.gov.uk)

### **Local Government Association**

Probity in planning (update): the role of councillors and officers  
[www.lga.gov.uk/planning](http://www.lga.gov.uk/planning)

*A LGA update to the highly successful original guidance (published in 1997) on preparing a local code of good practice for those dealing with planning matters will be available shortly*

### **National Planning Forum**

Pre-application advice for town and country planning:  
National Planning Forum good practice note 2 one of a series of 'inspiring planning'  
good practice notes  
[www.natplanforum.org.uk/good%20practice.html](http://www.natplanforum.org.uk/good%20practice.html)

### **Planning Advisory Service**

Member development modules  
[www.pas.gov.uk/membertraining](http://www.pas.gov.uk/membertraining)

### **Planning Officers Society**

Members and Planning  
[www.planningofficers.org.uk/article.cp/articleid/176](http://www.planningofficers.org.uk/article.cp/articleid/176)

### **The Standards Board for England**

Guidance on the Model Code of Conduct, including personal and prejudicial interests  
[www.standardsboard.gov.uk/TheCodeofConduct/Guidance/](http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/)

Fact sheets and Frequently Asked Questions  
[www.standardsboard.gov.uk/TheCodeofConduct/Factsheetsandfrequentlyaskedquestions/](http://www.standardsboard.gov.uk/TheCodeofConduct/Factsheetsandfrequentlyaskedquestions/)

Paper on predisposition, predetermination or bias, and the Code  
[www.standardsboard.gov.uk/Publications/OccasionalPaper/](http://www.standardsboard.gov.uk/Publications/OccasionalPaper/)

IDT 2517





## **Protocol for Officers and Members for Dealing with Conflicts of Interest of Councillors in Professional Practice**

- (a) In circumstances where a Councillor is instructed to act as a professional representative or adviser for a client on any matter involving the Council, the Councillor should declare his interest in writing to the Chief Executive as soon as possible and the Chief Executive shall then inform the relevant department(s) which is dealing with the matter.
- (b) On any approach to an Officer (whether oral or in writing) which is made in connection with any matter in which the Councillor is instructed to act as a professional representative for a client, the Councillor should declare to the Officer that he or she is acting in the matter as a professional representative for a client. In all cases the Officer should clearly establish with the Councillor, at the outset and before the matter is discussed, whether the Councillor is acting in his capacity as a professional representative for a client.
- (c) In all cases where a Councillor is acting as a professional representative for a client the Councillor should endeavour to conduct all professional dealings on that matter through the appropriate professional Officer of the Council in the relevant department. In all circumstances where an Officer receives an inappropriate approach from the Councillor having regard to this protocol that Officer should refer the Councillor to the appropriate professional Officer in the relevant department and should decline to discuss the matter with the Councillor.

In particular, in all matters where the Councillor is acting for a client and the matter is the subject of instructions to the Solicitor to the Council, the Councillor shall ensure that he or she conducts all of his dealings with the Solicitor to the Council (or the appropriate officer having the care and conduct of the matter in Legal Services).

- (d) Councillors acting as a professional representative or adviser for a client will almost certainly have a personal and prejudicial interest and must declare their interest and act in accordance with the Member' Code of Conduct if the matter comes before the Council (Councillors should also be reminded that they should apply the principles of disclosure of interests in their unofficial relations with other Councillors (e.g. party group meetings, or other informal occasions) no less scrupulously than at formal meetings of the Council – paragraphs 4 & 5 of the Members' Code of Conduct.
- (e) Where a Councillor has declared a conflict of interest under this protocol in respect of any matter, the Councillor shall not receive any confidential report or papers relating to that matter and the Chief Executive and all other Chief Officers shall exclude from the Councillor's rights of access or inspection any confidential report or other document relating to the matter. The declaration of a conflict of interest under this protocol shall be reported to the relevant decision making body of the Council and to the Monitoring Officer and/or a note thereof shall be included on every confidential report or other paper. No other Member of the Council shall disclose any such confidential report or paper to a Councillor who has declared a conflict of interest under this protocol.
- (f) Councillors who are members of a large professional practice need to check whether other parts of their firm have an involvement with clients whose business is coming before the Council. If so, an interest will need to be declared even if the matter is not being personally handled by the Councillor.

- (g) Councillors in professional practice in addition to complying with this protocol shall comply with any practice or conduct rules which have been issued by their own professional body in relation to their dealings with the Council.
- (h) Councillors in professional practice should be especially aware of the possible conflict of interest that may arise between their role as Councillor and their role as professional adviser to private clients. Careful regard must always be had to the Members' Code of Conduct and whenever such a conflict of interest may arise the Councillor is advised to consider whether he or she should declare a personal interest and whether it is also a prejudicial interest.
- (i) For the purposes of this protocol any references to
  - (i) "the Council" shall be taken to include the Council, the Executive, and any of the Council's or the Executive's committees, sub-committees, joint committees, joint sub-committees, area committees and any policy advisory groups or working groups.
  - (ii) "the relevant decision making body of the Council" shall include any of the Council's or the Executive's committees, sub-committees, joint committees, joint sub-committees, area committees and any policy advisory groups or working groups notwithstanding that the functions of any such body may be limited to the giving of advice or the making of recommendations or to undertaking an overview or scrutiny function.

# Communication Strategy

## Introduction

1. Effective communication of our plans, activities and ambitions will enable us to listen, capture and explain ideas and ambitions. Being inclusive will contribute to the District as a whole in creating and maintaining a world-class future built upon strong economic growth and safe, sustainable, self-reliant and prosperous communities.
2. Our methods of communication will be clear and concise, making the best use of everyone's resources, time, goodwill and energy, promoting positive outcomes and being transparent when things do not go as well. We will also make sure all communities and their representative groups can be involved productively.

## Goals

3. Our goals are to:
  - Create a framework to support our activities and plans.
  - Let our partners, business and the public know what they can expect from us.
  - Make it clear how our communities can influence our decisions.
  - Follow the principles of the Dover District Compact.

## Background

4. The feedback we have had identifies that we run a very tight operation and any changes to encompass necessary improvements in how we communicate to support our ambitions will involve increased expenditure. The obvious complication to this message is the local impact of turbulence within the international financial environment. Our strategy has been developed to accommodate the need to expand our communications while, at the same time, identifying how this can be funded. The strategy's objectives have been split between 2008/9 and 2009/10 to manage this process.
5. As part of the development of our communication strategy, we have researched our communities' thoughts about our current communications. The key messages coming back to us are:
  - Over 80% of residents read the Dover District Council @ your service newsletter.
  - Only around 20% of residents contact the Council monthly or more frequently.
  - Nearly 80% of residents feel we communicate well.
  - Residents state that they increasingly prefer to use electronic contact rather than traditional methods of face to face or letter.
  - Nearly 70% of residents believe they get their opinions heard by the Council.
6. Consultation and further research into best practice has identified that we need to:
  - Get on and deliver transformation and be concise and not over-burden consultees in the process.

- Signpost and target our consultations and not just send out full consultation documents to everyone on our database.
- Deliver what our strategy states we will and keep it as a 'living document'.
- Provide positive responses and gratitude to those who take the time to respond to our communications.
- Recognise and promote good ideas to be shared within our district, even if we are unable to take them forward ourselves.
- Look outwards to constantly understand best practice.
- Actively promote positive media relations.
- Ensure we connect our communications to other agreements and protocols.
- Better explain what we recognise to be 'world-class'.

### **Communication Vision**

7. Our achievements, services and world-class aspirations are known by actual, and potential, partners, stakeholders, communities and visitors.

### **Values**

8. All communications will meet our values, which are:
  - To treat everyone appropriately.
  - Be prompt, polite, courteous and respectful.
  - Use plain language and avoid jargon.
  - Keep you informed on the progress of your enquiry.
  - Explain our decisions clearly.
  - Listen well.
  - Openness and honesty.
  - Trust and respect.
  - Learning.
  - Team work.
  - Innovation.

### **Aims**

9. Communication aims are:
  - (a) Communities
    - To have communities know how they can influence what we do and be involved with how we do it.
    - To encourage, recognise and publicise innovation, well-being, excellence and identity within all our communities.
    - Always use the most appropriate way to gain the views of our communities.
    - Engage with everyone who lives, works, contacts or visits the District.
    - Listen to what communities are saying.
    - Thank communities for engaging with us.
    - Be open to world-class ideas from wherever they may be.
    - Share good ideas so all communities can take them up.
    - Explain our decisions when communities views don't change things
    - Encourage people from different backgrounds to get on with each other.

(b) Openness and Trust

- Be transparent and accountable.
- Show how we provide value for money.
- Be consistent throughout the whole of our organisation.
- Build effective trusting relationships with media organisations.

(c) Fairness

- Promote a diverse and equal District.
- Improve the lives of those who visit, live, work and study in our District.
- Encourage trust in, and loyalty for, the District, individual communities and the Council.

(d) Learning

- Show how we learn from what we are told.
- Plan how we will use communication to support the targets we have agreed in our Corporate Plan.
- Understand from communities the right balance of communication.

**Objectives**

10. Communicate appropriately with those who will influence and be affected by our plans and activities.
11. Develop more open and proactive media relationships, both locally and regionally.
12. Create a workable budget for communication activity.
13. Refresh the branding of Dover District Council.
14. Promote effective internal communication.

## Protocol for Health Scrutiny

1. These protocols are agreed within a context that assumes organisationally:
  - the bringing into force of the Health and Social Care Act 2001
  - Compliance with the *Overview and Scrutiny of Health – Guidance* issued in May 2003 and further guidance issued in July 2003
  - the continued existence at District/Borough level of local overview and scrutiny committees concerned with NHS matters
  - recognition of those bodies established to provide the Patients' Voice (currently Patients Forums)
  - the Committee and Patients' Forums will need to set up clear lines of communication and information exchange
  - a constructive partnership approach, based on mutual understanding between the Committee, the local authority executive function and local NHS bodies.
  - the continued development of partnership working, especially between Social Services and NHS bodies.
  
2. The protocols are based on the principles that NHS Overview and Scrutiny should:
  - Add value to existing processes.
  - Focus on supporting the improvement of health and health services to Kent residents.
  - Consider a health issue, system or economy, not just services provided.
  - Promote social, environmental and economic well-being.
  - Address issues of health inequalities between different groups, and working with NHS and other partners develop a dialogue to achieve health improvement.
  - Include reviewing the local authorities' contribution to the health of local people.
  - Demonstrate the local authorities' role of community leadership.
  - Minimise the additional administrative burdens on local authorities or NHS bodies.
  - Develop jointly between the local authorities and the NHS bodies.



- Operate at different levels within Kent.
3. Success factors for the protocols are:
- Positive outcomes of Scrutiny – for example, breaking logjams that prevent vulnerable people from accessing the services they need, co-ordinating public consultation on health issues across agencies, or attracting greater resources for public health and the prevention of ill health.
  - Involvement of NHS bodies and other local stakeholders in discussions about the purpose and scope of each scrutiny in addition to finding solutions.
  - Progress made on difficult issues, securing positive or sustainable improvement.
  - Issues tackled jointly across local agencies.

## **STRUCTURES**

4. Overview and Scrutiny structures will comprise:

### Patients' Forums

- Dialogue focused on service providers (Acute, Primary Care, Mental Health and Ambulance Trusts).

### District Council Overview and Scrutiny Committees

To look at local service issues:

- Local co-ordination (or joint committees) to ensure cross-district issues dealt with jointly and involve KCC for a strategic overview.
- KCC to propose a framework for delegation of issues to District/Borough level, where an issue is confined within a single Primary Care Trusts boundary.
- Local KCC Members and Patients' Forum representatives to have rights of participation.
- Focused on Primary Care Trusts.

### KCC Health Service Overview and Scrutiny Committee

As a local authority with Social Services responsibilities it will be important for KCC's Committee to look at broad and wide-ranging issues that affect people's health and wellbeing, with District Council and Patients' Forum representatives having rights of participation.

The Committee will:

- Undertake two or three major themed (topic) reviews each year, plus reviews of service reconfiguration proposals and cross-cutting themes (such as Drugs or Transport). Reviews will be conducted by Select Committees (ad hoc time

limited Sub-Committees, including District Council and Patients' Forum Members), reporting to the KCC Health Service Overview and Scrutiny Committee.

- Consider reference of service reconfiguration proposals to the national Reconfiguration Panel.
- Receive reports and presentations from the NHS on topical health issues and initiatives.
- Focus on the Strategic Health Authority area.

#### Medway Overview and Scrutiny Committee

To combine both levels of operation within the Medway area but linked into the co-ordinated system.

### **CO-ORDINATION**

5. Overview and Scrutiny activity at local and Kent level needs free exchange of information and protocols for co-ordination of work and resolution of conflicts. To facilitate this there will be:
  - a regular meeting of Committee Chairmen and NHS representatives to agree a programme of work across the county and Medway
  - a similar officer forum to support and advise the Chairmen on the work programme and co-ordinate requests for NHS officers to provide papers, information or attend committee meetings, supported by day-to-day dialogue.
6. The KCC Committee membership allows for District Council and Patients' Forum membership:
  - a permanent representation of four District/Borough Council Members one for each of the four Health Economies in Kent and six representatives of Patient For a
  - a right for the Chairmen of each District/Borough Council Overview and Scrutiny Committee (or another relevant Member) and a representative of each Patients' Forum to attend and speak at the KCC Committee on a matter particularly affecting that area
  - appointment of members of relevant District Overview and Scrutiny Committees and Patients' Forums to individual topic reviews (agreed through the Chairmen's meeting)
7. District Committees will allow local KCC Members and Patients' Forum representatives to attend and speak at the Committee.
8. KCC and Medway Council will establish joint Overview and Scrutiny Committee where issues cross boundaries and patient flows warrant it. This principle will also apply to neighbouring Strategic Health Authority areas and the Overview and Scrutiny Committees in those areas.

## REVIEW PLANNING

9. Overview and Scrutiny will include briefings, seminars, reports, consultations and reviews, as well as matters referred to the Committee by Patients' Forums. Each review should be preceded by a Review Plan discussed within the officer forum and agreed with the relevant NHS bodies. To reach final agreement, issues may be considered in some detail at the meeting of Chairmen and should then be considered by the relevant Overview and Scrutiny Committee after the NHS representative has attended the Committee to express the NHS view and answer member questions.

(NB: Draft Review Plans will involve the elected Members of the Local Authority concerned.)

10. The Review Plan should:

- be drawn up with the involvement of the NHS, beginning with a scoping meeting that includes lead NHS manager(s) and clinician(s) as appropriate to assist the committee in accessing the information it needs and to enable appropriate terms of reference to be set and to agree the general nature of the expected outcome
- set the terms of reference for the review
- set an approximate timetable of meetings and a reporting date
- state the officers supporting the review within the local authority, the NHS and Patients' Forums and estimate the time commitment required of them
- state the main witnesses and information sources expected to be involved.

## REVIEW ADMINISTRATION

11. The arrangements for meetings of Overview and Scrutiny Committees shall ensure that:

- Dates for witnesses to attend Committee meetings are agreed with witnesses as far in advance as possible.
- Witnesses will be consulted about convenient dates for them to attend, within the review timeframe (NB Clinicians need at least six weeks notice in order to avoid compromising patient care).
- NHS Chief Executives and other local authorities' Chief Executives arrange for appropriate officers chosen by them to attend to give evidence on the identified topics (subject to any provision to be made in statutory regulations).
- Advance notice of two weeks should generally be given of the areas to be covered in questioning in order for appropriate briefing to be to hand.
- Information is wherever possible distributed to the Committee in writing before the witness attends.

## MEETING PROTOCOLS

12. All Overview and Scrutiny Committees should incorporate in their Procedure Rules or otherwise ensure that:
- Committee Members should endeavour not to request detailed information from officers of the NHS or another local authority at meetings of the Committee, unless they have given prior notice through the Clerk. If, in the course of question and answer at a meeting of Committee, it becomes apparent that further information would be useful, the officer being questioned may be required to submit it in writing to members of the Committee through the Clerk.
  - In the course of questioning at meetings, officers of the NHS or another local authority may decline to give information or respond to questions on the ground that it is more appropriate that the question be directed to a more senior officer or Member.
  - Officers of the NHS or another local authority may decline to answer questions in an open session of the Committee on the grounds that the answer might disclose information which would be exempt or confidential as defined in the Access to Information Act 1985 and the Freedom of Information Act once enacted. In that event, the Committee may resolve to exclude the media and public in order that the question may be answered in private session.
  - Committees may not criticise or adversely comment on any individual officer of another local authority or of an NHS body by name

## REPORTING

13. All local authorities should ensure that:
- A record is made of the main statements of witnesses appearing before the Committee and agreed with those witnesses prior to publication or use by the Committee. Committee meetings may be electronically recorded.
  - Drafts of Committee reports and recommendations be made available for comment by the relevant NHS body (or local authority), allowing that body two weeks in which to respond, if their operations might be commented on, and any adverse comments or concerns reported to the Committee before the final report is published. Responsibility for the report lies with the Committee which produced the report.
  - The Chief Executive of any NHS body and/or the Chief Officer of any other local authority involved with the review is given advance notice of the date of publication of the report and consulted on the text of any accompanying press release.
  - Reports include an agreed timetable for any NHS body and/or other local authority involved to publish a response to the report's recommendations, once confirmed by the appropriate Overview and Scrutiny Committee.

## SERVICE RECONFIGURATIONS

14. NHS bodies remain responsible for public and other consultation on service reconfiguration proposals.
15. The intention to carry out a consultation will be discussed in the officer forum.
16. The KCC Health Service Overview and Scrutiny Committee will consult District/Borough Councils and Patients' Forums for the areas affected by each proposal on whether to:
  - consider the matter at a full meeting of the Committee
  - set up a KCC Select Committee to consider the proposal
  - request a District/Borough Overview and Scrutiny Committee to consider the proposal.
17. If a Select Committee is established or a District/Borough Overview and Scrutiny Committee requested to carry out a review:
  - paragraphs 9-13 above shall apply to its work programme and proceedings
  - the Review Plan shall as far as possible be integrated with the NHS body's consultation programme
  - consideration shall be given to:
    - including one or more members of District/Borough Councils on the Select Committee or KCC members on the District/Borough Overview and Scrutiny Committee
    - including Patients' Forum members on the Committee
    - other arrangements for ensuring all local authorities and Patients' Forums may express their views and seek information on the proposal
  - the review report shall be submitted to the KCC Health Service Overview and Scrutiny Committee who will consider the recommendations together with any response by the NHS body and decide whether to refer the proposal to the Reconfiguration Panel.



## **Part 6**

# **Members' Allowances Scheme**





# Members' Allowances Scheme

## 1. Introduction

- 1.1 The Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended) requires local authorities to prepare schemes for the payment of allowances to their members.
- 1.2 The 2003 Regulations (as amended) states that authorities must establish a new scheme of allowances under those Regulations by 31 December 2003. Authorities making schemes are required to make provision for the payment of basic allowances and may also provide for the payment of special responsibility allowances, dependants' carers allowances, travelling and subsistence allowance and co-optees' allowances. Authorities must have regard to the recommendations made by an independent remuneration panel before making or amending a scheme.
- 1.3 An Independent Remuneration Panel has been established jointly by Dover District Council, Shepway District Council and Thanet District Council from 1 May 2008. The previous Independent Remuneration Panel established jointly by Dover District Council and Thanet District Council produced a report and recommendations (dated November 2003) in accordance with the Local Authorities (Members Allowances) (England) Regulations 2003. This scheme was then duly made by the Council at its meeting on 17 December 2003.
- 1.4 At the Annual Meeting of the Council held on 11 May 2005 (and following consideration of a further report and recommendations of the independent remuneration panel dated January 2005), the Scheme was duly amended and these amendments are referred to and included in the Scheme set out below.

## 2. Commencement and Period of Scheme

- 2.1 This Scheme is made by Dover District Council pursuant to Section 18 of the Local Government and Housing Act 1989 (as amended by Section 99 of the Local Government Act 2000) and the Local Authorities (Members' Allowances) Regulations 2003.
- 2.2 This Scheme has effect from 17 December 2003 and applies to the payment of members' allowances from 18 December 2003 until 31 March 2004 and subsequent years thereafter (subject to any revocation or amendment).
- 2.3 The Scheme shall remain in force unless and until revoked by the Council with effect from the beginning of a year.
- 2.4 The Scheme may be amended at any time provided that regard is had to the recommendations of the independent remuneration panel.
- 2.5 Following the report from the independent remuneration panel in January 2005, the Council amended this Scheme at its Annual Meeting held on 11 May 2005; such amendments comprised of (a) inserting amended Schedules 1 (Basic Allowance), 2 (Special Responsibility Allowances) and 3 (Travelling and Subsistence Allowance) and (b) inserting paragraph 7A and Schedule 5 (Dependants Carers' Allowance).

### **3. Revocation of Previous Schemes**

- 3.1 All previous schemes made by the Council for the payment of members' allowances were revoked with effect from 17 December 2003.

### **4. Basic Allowances**

- 4.1 A basic allowance shall be paid to each Member of the authority who is a councillor in the amount set out in Schedule 1.
- 4.2 Where the term of office of a Member begins or ends otherwise than at the beginning or end of a year, his/her entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office as Member and councillor subsists bears to the number of days in that year.
- 4.3 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that part, the part of basic allowance payable to him/her in respect of the period for which he/she is suspended or partially suspended may be withheld by the authority.

### **5. Special Responsibility Allowances**

- 5.1 Special responsibility allowances shall be payable to those Members of the authority who are councillors as hold those offices (which have special responsibilities in relation to the authority) as are specified in column 1 of Schedule 2.
- 5.2 The amount of each special responsibility allowance shall be as specified in column 2 of Schedule 2.
- 5.3 Where a Member does not have throughout the whole of a year any such special responsibilities as entitle him/her to a special responsibility allowance, his/her entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he/she has such special responsibilities bears to the number of days in that year.
- 5.4 Where a Member is suspended or partially suspended from his/her responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, the part of special responsibility allowances payable to him/her in respect of the responsibilities or duties from which he/she is suspended or partially suspended may be withheld by the authority.
- 5.5 No Member shall be entitled to more than one special responsibility allowance. Where a Member holds more than one office, then the higher of the special responsibility allowances shall apply.

## **6. Appropriate Adjustments**

- 6.1 The Section 151 Officer shall be authorised to make provision for any appropriate adjustment if necessary in respect of any basic allowance or special responsibility allowance which (a) has already been paid under the previous scheme in respect of the remainder of the year from which this Scheme has effect or (b) is to be paid in respect of any part of the year during which the previous scheme had effect.

## **7. Travelling and Subsistence Allowance**

- 7.1 Travelling and Subsistence Allowance shall be available to Members of the Council (including Co-opted members) in such amount or amounts as may be specified in Schedule 4 and subject to such conditions as are set out therein and below.
- 7.2 Travelling and Subsistence Allowance shall only be payable to Members in respect of actual expenditure incurred in connection with or relating to the approved duties shown below. The scheme does not allow for travelling expenses to be paid to Members arranging meetings with officers or attending to Ward work as this is deemed to be part of the Member's role and Members' allowances paid are calculated to reflect these extra duties.
- 7.3 Attendance at meetings of the Council or of any of its committees, sub-committees, working or liaison groups, appeal panels and ad hoc meetings recorded in official minutes to which a Member has been appointed or at which s/he is acting as a Substitute for another Member including representatives appointed to Neighbourhood Forums and their substitutes.
- 7.4 Attendance at meetings of the Cabinet or of any Committee of the Cabinet or policy or project advisory groups. Members of the Shadow Cabinet, Chairmen of Scrutiny Committees and recognised Group Spokespersons shall also be eligible to claim for attendance at meetings of the Cabinet.
- 7.5 Requested attendance at meetings of Overview and Scrutiny Committees.
- 7.6 Meetings pursuant to any Joint Arrangements with another or other local authorities whether appointed or established under the Local Government Act 2000 or any other enactment.
- 7.7 Official briefing meetings which relate to an approved meeting as set out in 1.1 and 1.2 above where officers have specifically invited the Member. 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. For example: visiting the Council offices to discuss with an officer a matter raised by a member of the public in the Member's Ward.
- 7.8 Site meetings approved in advance by the Council, a committee or sub-committee, and limited to members of the committee or sub-committee in question.
- 7.9 Attending the approved duties as set out in Table 1 of Schedule 4. (Travelling arrangements should be co-ordinated to avoid duplicate claims wherever possible, particularly in instances where a Council Officer is also attending).

- 7.10 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.
- 7.11 Training, induction courses and seminars arranged for Members.
- 7.12 Attending the Council offices to open tender documents in accordance with Contracts Standing Order 11.5 in Part 4 of the Constitution.
- 7.13 The performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises.
- 7.14 The performance of any duty in connection with arrangements made by the authority for the attendance of pupils at any school approved for the purposes of section 342 (approval of non-maintained special schools) of the Education Act 1996.
- 7.15 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. Provided always that the approved duties for which Members are eligible to claim travel and subsistence allowance shall not include cases where the Member is acting solely in his/her community role or carrying out ward business.
- 7.16 Co-opted and independent members of Committees, Boards and Panels receive travel allowances in the same way as elected members of the Council.
- 7.17 All claims for travel and subsistence allowances must be submitted to the Democratic Support section within three months from the date on which the entitlement arises.

## **8. Suspension from duties**

- 8.1 Where a Member is suspended or partially suspended from his responsibilities or duties as a member of the Council in accordance with Part III of the Local Government Act 2000 or regulations made under that Part, any travelling and subsistence allowance payable to him/her in respect of the responsibilities or duties from which s/he is suspended or partially suspended may be withheld by the Council.

## **9. Dependants' Carers' Allowance**

- 9.1 A Dependants' Carers' Allowance shall be available to Members of the Council (a) in such amount or amounts as may be specified in Schedule 5 and (b) subject to such conditions as are set out in Schedule 6 and below.
- 9.2 A Dependant's Carer's Allowance shall only be payable to Members in respect of actual expenditure incurred in connection with or relating to the approved duties set out and at the hourly national minimum wage or higher for the municipal year 2011/12 and thereafter index linked as specified in Schedule 5.
- 9.3 A Dependant's Carer's Allowance shall only be payable to Members in respect of the expense of arranging for the care of a spouse, partner, child, parent, or a person who lives in the same household as the Member otherwise than by reason of being his/her employee, tenant, lodger or boarder.

- 9.4 The carer must not be a member of the claimant's immediate family i.e. spouse or partner, other children of the Member or Member's spouse, or any member of the Member's family who lives at the same address as the Member; nor should it be an employee, tenant, lodger or boarder who lives at that address.
- 9.5 Payment of the allowance shall only be made on satisfactory production of an invoice and receipt; invoice is available from the Head of Democratic Services.
- 9.6 Such allowances paid to a Member shall be unlimited.
- 9.7 All claims for such allowances must be submitted monthly to the Head of Democratic Services.

## 10. **Index Linking**

- 10.1 Each of the levels of the allowances contained in this Scheme shall be adjusted annually on 1 April 2006, 1 April 2007, 1 April 2008 and 1 April 2009 by reference to those indices as may be specified in Schedule 5.

## 11. **Back Dating**

- 11.1 Where an amendment of this Scheme is made which affects an allowance payable for the year in which the amendment is made, the Member's entitlement to such allowance as amended shall apply with effect from the beginning of the year in which the amendment is made.

## 12. **Repayment**

- 12.1 Where payment of any allowance has already been made in respect of any period during which the Member concerned is:

- (a) suspended or partially suspended from his/her responsibilities or duties as a member of the authority in accordance with Part III of the Local Government Act 2000 or regulations made under that Part;
- (b) ceases to be a member of the authority; or
- (c) is in any way not entitled to receive the allowance in respect of that period,

the Council may require that such part of the allowance as relates to any such period shall be repaid to the Council.

## 13. **Membership of More than One Authority**

- 13.1 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.

## 14. **Elections**

- 14.1 A Member may, by notice in writing given to the Section 151 Officer, elect to forego any part of his/her entitlement to an allowance under this Scheme.

## 15. Claims and Payments

- 15.1 No claim is required for basic allowances and special responsibility allowances. Basic allowances will be paid equally to all Members whilst special responsibility allowances will be paid to those Members who are entitled to them.
- 15.2 Basic allowances and special responsibility allowances will be paid as follows:
- (i) To enable Members to meet one-off expenses at the start of each year, the basic allowance will be paid as follows:
    - (a) a payment of £500 at the commencement of the year
    - (b) the balance to be paid by equal monthly payments on or about the 19th day of each month.
  - (ii) Special responsibility allowances will be paid by equal monthly instalments on or about the 19th day of each month.
- 15.3 In the case of Travelling and Subsistence Allowance and Dependants' Carers' Allowance claims must be submitted on the appropriate form on a monthly basis and will be paid through the Council's payroll system. In order to facilitate payment, claim forms should be completed in full detail and any appropriate receipts or vouchers attached. If the expenses are vatable, a VAT receipt should be enclosed if possible, to enable the Council to recover the VAT element. The declaration on the form must be completed and signed in every instance.
- 15.4 Members are requested to submit claims by not later than the 25th of each month for payment by direct credit to bank accounts on or about the 19th of the following month. A payment advice slip will be sent directly to Members and further claim forms are available from the Democratic Support Officers on request.
- 15.5 The following data must be provided to the Section 151 Officer in order to facilitate the payment:
- (i) Bank address and bank account number.
  - (ii) National Insurance number and, in the case of certain married women, a Certificate of Reduced Liability and, in the case of pensioners, a Certificate of Age Exemption, these certificates being provided by the Department of Social Security.
- 15.5 In the case of a claim for Travelling and Subsistence Allowance or Dependants' Carers' Allowance such claim must be made to the Senior Democratic Support Officer within one month from the date on which an entitlement to the allowance arises.

## SCHEDULE 1

<b>Basic Allowance</b>	£3,980 pa
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## SCHEDULE 2

Column 1 (Description)	Column 2 (Amount)
<b>Special Responsibility Allowances</b>	
Special responsibility allowances of the amounts shown in Column 2 (where indicated) shall be payable in respect of the following office holders:	
Leader of the Council	£14,832 pa
Deputy Leader of the Council	£7,416 pa
Other Cabinet Members	£5,562 pa
Chairmen of Overview and Scrutiny Committees	£3,708 pa
Chairman of the Planning Committee	£3,708 pa
Chairman of the Governance Committee	£3,708 pa
Chairman of the Standards Committee	£927 pa
Chairman of the Regulatory Committee	£927 pa
Chairman of the Licensing Committee	£927 pa
Chairman of the Dover Joint Transportation Board	£927 pa
Chairman of the General Purposes Committee	£927 pa
Vice-Chairmen of Overview and Scrutiny Committees	£927 pa
Vice-Chairman of the Planning Committee	£927 pa
Vice-Chairman of the Governance Committee	£927 pa
Vice-Chairman of the Standards Committee	£232 pa
Vice-Chairman of the Regulatory Committee	£232 pa
Vice-Chairman of the Licensing Committee	£232 pa
Vice-Chairman of the Dover Joint Transportation Board	£232 pa
Vice-Chairman of the General Purposes Committee	£232 pa

<b>Column 1 (Description)</b>	<b>Column 2 (Amount)</b>
Leader of the Main Opposition Group where the group has 10 or more members	£4,171 pa
Leader of an Opposition Group with a membership of between 5 and 9 members	£232 pa
Leader of an Opposition Group with less than 5 members	None
Deputy Leader of the Main Opposition Group where the group has 10 or more members	£1,854 pa
Deputy Leader of an Opposition Group with less than 10 members	None
Members of the Shadow Cabinet	£1,854 pa
Members of the Licensing Committee	£260 pa
Independent (Co-opted) Members of the Standards Committee	£116 pa

### SCHEDULE 3

<b>Column 1 (Description)</b>	<b>Column 2 (Amount)</b>
Chairman of the Council	£5,300 pa
Vice-Chairman of the Council	£1,400 pa



## SCHEDULE 4

Column 1 (Description)	Column 2 (Amount)																																												
<p><b>Travelling and Subsistence Allowance</b></p> <p>List of approved duties attendance at which may be claimed for:</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;"><u>Body</u></th> <th style="text-align: center;"><u>Number of representatives</u></th> </tr> </thead> <tbody> <tr><td>Action with Rural Communities in Kent</td><td style="text-align: center;">2</td></tr> <tr><td>Association of Port Health Authorities</td><td style="text-align: center;">1</td></tr> <tr><td>Dover Deal &amp; District Citizens Advice Bureau</td><td style="text-align: center;">2</td></tr> <tr><td>Dover District Community Sports Network</td><td style="text-align: center;">2</td></tr> <tr><td>East Kent Spatial Development Company</td><td style="text-align: center;">1</td></tr> <tr><td>Industrial Communities Alliance</td><td style="text-align: center;">1</td></tr> <tr><td>JAC Kent Downs AONB Partnership</td><td style="text-align: center;">1</td></tr> <tr><td>Kent County Playing Fields Association</td><td style="text-align: center;">1</td></tr> <tr><td>Kent International Airport Consultative Committee</td><td style="text-align: center;">1</td></tr> <tr><td>Kent Leaders' &amp; Chief Executives' Forum</td><td style="text-align: center;">1</td></tr> <tr><td>Local Government Association – General Assembly</td><td style="text-align: center;">1</td></tr> <tr><td>Local Government Association – Rural Commission</td><td style="text-align: center;">1</td></tr> <tr><td>Patrol (National Parking Adjudication Service)</td><td style="text-align: center;">1</td></tr> <tr><td>River Dour Steering Group</td><td style="text-align: center;">1</td></tr> <tr><td>River Stour (Kent) Internal Drainage Board</td><td style="text-align: center;">2</td></tr> <tr><td>Sandwich &amp; Pegwell Bay National Nature Reserve Management Committee</td><td style="text-align: center;">1</td></tr> <tr><td>Sandwich Port &amp; Haven</td><td style="text-align: center;">2</td></tr> <tr><td>South East England Councils (Secretary &amp; Executive)</td><td style="text-align: center;">1</td></tr> <tr><td>South East Leaders' Board</td><td style="text-align: center;">1</td></tr> <tr><td>Southern &amp; South East England Tourist Board</td><td style="text-align: center;">1</td></tr> <tr><td>Supporting People in Kent Commissioning Body</td><td style="text-align: center;">1</td></tr> </tbody> </table>	<u>Body</u>	<u>Number of representatives</u>	Action with Rural Communities in Kent	2	Association of Port Health Authorities	1	Dover Deal & District Citizens Advice Bureau	2	Dover District Community Sports Network	2	East Kent Spatial Development Company	1	Industrial Communities Alliance	1	JAC Kent Downs AONB Partnership	1	Kent County Playing Fields Association	1	Kent International Airport Consultative Committee	1	Kent Leaders' & Chief Executives' Forum	1	Local Government Association – General Assembly	1	Local Government Association – Rural Commission	1	Patrol (National Parking Adjudication Service)	1	River Dour Steering Group	1	River Stour (Kent) Internal Drainage Board	2	Sandwich & Pegwell Bay National Nature Reserve Management Committee	1	Sandwich Port & Haven	2	South East England Councils (Secretary & Executive)	1	South East Leaders' Board	1	Southern & South East England Tourist Board	1	Supporting People in Kent Commissioning Body	1	<p><u>Subsistence Allowances</u></p> <p>Subsistence allowance shall only be paid for actual expenses incurred and with proper receipts and shall not exceed:</p> <p>(a) In the case of absence, not involving an absence overnight, from the Member's usual place of residence:</p> <p style="margin-left: 20px;">(i) <u>Breakfast Allowance</u> £6.45</p> <p style="margin-left: 20px;">Absence to exceed 4 hours before 11.00 am.</p> <p style="margin-left: 20px;">(ii) <u>Lunch Allowance</u> £8.91</p> <p style="margin-left: 20px;">Absence to exceed 4 hours and to include the lunch period between 12 noon to 2.00 pm.</p> <p style="margin-left: 20px;">(iii) <u>Tea Allowance</u> £3.53</p> <p style="margin-left: 20px;">Absence to exceed 4 hours and to include the period 3.00 pm to 6.00 pm.</p> <p style="margin-left: 20px;">(iv) <u>Evening Meal Allowance</u> £11.03</p> <p style="margin-left: 20px;">Absence to exceed 4 hours, period of time ending after 7.00 pm.</p> <p>(b) Members who are required to make overnight stays in the performance of their official duties should, wherever possible,</p>
<u>Body</u>	<u>Number of representatives</u>																																												
Action with Rural Communities in Kent	2																																												
Association of Port Health Authorities	1																																												
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Column 1 (Description)	Column 2 (Amount)
	<p>second class rail fare on their monthly claim form.</p> <p>(d) Second class rail fares, bus fares, essential taxi fares and gratuities, car parking fees, tolls etc necessarily incurred may be claimed subject to the provision of receipts. Rail fares should be pre-booked wherever possible to achieve reduced fares.</p> <p>(e) All claims for travel and subsistence allowances must be submitted to the Democratic Support section within three months from the date on which the entitlement arises.</p>

## SCHEDULE 5

Allowance	Index
<b>Index Linking</b>	
Basic and Special Responsibility Allowances and Co-optees Allowance	Percentage adjustment in line with changes in Officers' Allowances
Travel and Subsistence Allowances	Percentage adjustment in line with changes in Officers' Allowances
Dependants' Carers' Allowance	Retail Price Index

## SCHEDULE 6

Column 1 (Description and Conditions)	Column 2 (Amount)
<b>Dependants' Carers' Allowance</b>	£5.93 per hour

## **Part 7**

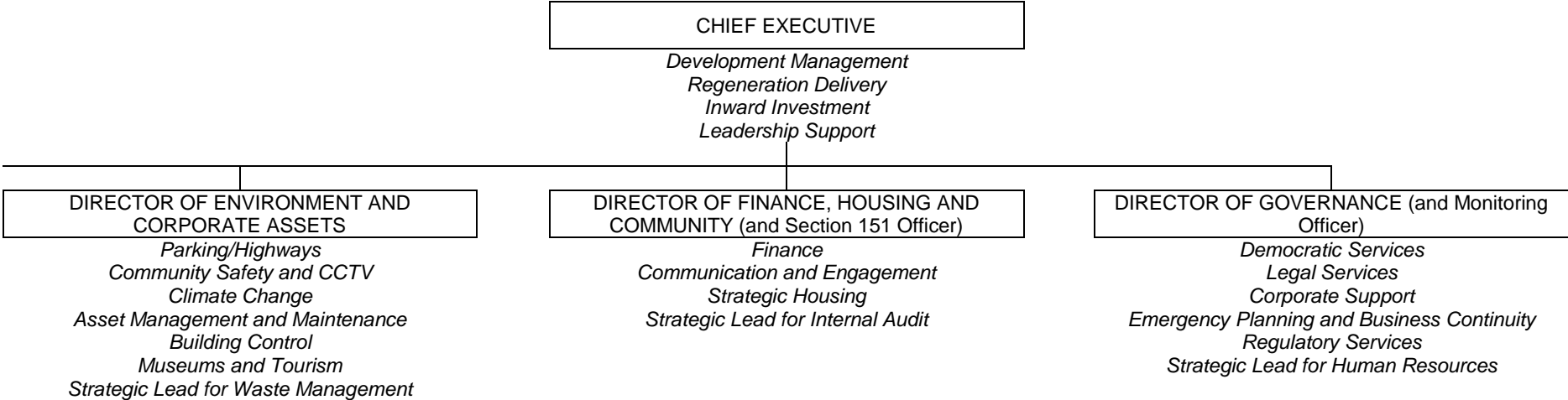
# **Management Structure**

# Management Structure

## Organisational Chart

### Corporate Management Team

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## **Part 8**

### **East Kent Joint Committees**





# **East Kent (Joint Scrutiny) Committee – Operating Arrangements**

**Canterbury City Council**

**Dover District Council**

**[Kent County Council]**

**Shepway District Council**

**Thanet District Council**

together referred to as 'the Parties'

## **1. Key Principles for the Operation of the East Kent (Joint Scrutiny) Committee (EKJSC)**

- 1.1 The members of the EKJSC will work together to maximise the exchange of information and views, to minimize bureaucracy and make best use of the time of members and officers of local and other authorities.
- 1.2 The guiding principle for the work of EKJSC is that it should be consensual and positive. The emphasis of the work should be on making proactive contribution to the development of policy and the discharge of EKJAC's functions. This is best achieved by an inclusive process covering members, the parties' partners, service users and officers.
- 1.3 The process of joint scrutiny will be open and transparent, designed to engage the parties, their residents and other stakeholders.

## **2. Objectives**

- 2.1 The EKJSC is established under section 101 and 102 Local Government Act 1972 and Section 2 Local Government Act 2000 with the objective of acting as the single Scrutiny Committee for the monitoring, review and scrutiny of the East Kent (Joint Arrangements) Committee (EKJAC).

## **3. Terms of Reference**

- 3.1 The terms of reference of the EKJSC are as set out in Schedule 1.
- 3.2 These arrangements will be reviewed regularly. No proposed amendments to these arrangements will take effect until they have been agreed and endorsed by each of the parties.

## **4. Call-In**

- 4.1 The arrangements for the operation of call-in by the EKJSC shall be as set out in Schedule 2. The EKJSC shall have power to call-in any decision made by EKJAC, a sub-committee of EKJAC, or any member or officer with delegated authority from

EKJAC. The EKJSC will not have the power to call-in any decision of the Executive of any of the Parties.

- 4.2 Where there is a call-in by a statutory scrutiny committee of any of the Parties of any decision of the EKJAC, each of the other Parties will be notified forthwith. The call-in shall be heard by the call-in Party's statutory scrutiny committee in accordance with the call-in Party's own arrangements. Where there is more than one call-in on the same subject the parties shall endeavour to ensure that they are heard together at the same time and place.
- 4.3 The call-in procedure set out in clauses 4.1 and 4.2 above shall not apply where the decision being taken by or on behalf EKJAC is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the Parties or the public interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one and therefore not subject to call-in. The Chairman and the members of each of the Parties affected by the decision 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 consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service of that Party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available full Council meetings of each of the Parties, together with the reasons for urgency.

## **5. Membership and Terms of Office**

- 5.1 The EKJSC will comprise three non-executive councillors from each of the Parties.
- 5.2 Each appointing Party shall appoint its three members on the basis of its overall political proportionality.
- 5.3 Members of the EKJSC shall be appointed by the Parties at their annual meetings of their respective Council and shall hold office until:
- (a) the next annual meeting of the Party that appointed them, save that the Party that appointed them may remove them from office, either individually or collectively, at an earlier date in the event of a change in political control of that Party; or
  - (b) they resign from office; or
  - (c) they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension)
- 5.4 Each Party may appoint substitutes to represent their authority in the absence of the appointed councillors. Nominated substitutes will be non-executive councillors and will be able to attend any meeting of EKJSC in order to familiarise themselves with the issues involved, but will not be able to participate in debate or vote unless they are formally acting as a substitute member.
- 5.5 Non-voting members may be co-opted onto the EKJSC from any or all of the Parties or from other public sector partner organisations as the EKJSC may unanimously decide. Co-optees may participate in the debate but may not vote.

## **6. Frequency of Meetings**

- 6.1 The EKJSC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

## **7. Agenda Setting and Access to Meetings and Information**

- 7.1 The agenda for the EKJSC shall be agreed by the chairman following a briefing by relevant officers. Any member of the EKJSC may require that an item be placed for consideration on the agenda of the next available meeting.
- 7.2 There will be a standing item on the agenda of each meeting of the EKJSC for matters referred by the EKJAC.
- 7.3 Notice of meetings and access to agendas and reports will be in accordance with sections 100A-K and Schedule 12A of the Local Government Act 1972.

## **8. Sub-Committees**

- 8.1 The EKJSC may establish sub-committees as it may determine by unanimous agreement of the EKJSC.
- 8.2 When establishing a sub-committee the EKJSC will agree the:
- (a) terms of reference for the sub-committee
  - (b) size and membership of the sub-committee including co-optees
  - (c) period for which the sub-committee will remain constituted
  - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
  - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

## **9. Delegation to Sub-Committees**

- 9.1 The EKJSC may arrange for the discharge of any of its functions by a sub-committee of the EKJSC.

## **10. Meetings and Procedure**

- 10.1 The Chairman and Vice Chairman will be appointed by the EKJSC on the basis of the position being rotated annually, as follows, and repeated each five years:

	<b>Chairman and Scrutiny Host Authority</b>	<b>Vice-Chairman</b>
2008-9	Shepway	Dover
2009-10	Dover	Kent
2010-11	Kent	Canterbury
2011-12	Canterbury	Thanet
2012-13	Thanet	Shepway

- 10.2 The Chairman and Vice Chairman of EKJSC shall be drawn from any political group not forming part of the administration of the appointing Council.

- 10.3 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.
- 10.4 The quorum of the EKJSC will be five with at least one member present from four of the five Parties.
- 10.5 The EKJSC may approve rules for meetings and procedure from time to time.
- 10.6 The EKJSC may ask organisations, individuals or groups to assist it from time to time and may ask independent professionals to advise it during the course of reviews. Such individuals or groups will not be able to vote.
- 10.7 The EKJSC may request the attendance of officers employed by the participating authorities to answer questions and give evidence to the committee. Such requests must be made via the Chief Executive of the relevant participating authority.
- 10.8 The EKJSC may invite any other person to attend its meetings to answer questions or give evidence; however, attendance by such persons cannot be mandatory.

## **11. Decision Making**

- 11.1 Decisions of the EKJSC will normally be made by consensus. A vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.
- 11.2 Where a minimum number of two members express an alternative to the majority view, they will be permitted to produce a minority report.

## **12. Scrutiny Host Authorities and Allocation of Roles**

- 12.1 In order to achieve the objectives of the EKJSC, the Parties will appoint a Scrutiny Host Authority which is for the time being the Authority shown as the Chairman and Scrutiny Host Authority in the table at clause 10.1.
- 12.2 Staff from the Scrutiny Host Authority who are commissioned to provide services, advice and support to the EKJSC will continue to be employees of the relevant Scrutiny Host Authority.
- 12.3 Responsibility for the following support services to the EKJSC will be allocated to the Scrutiny Host Authority:
- (a) the provision of legal advice and services
  - (b) the provision of financial advice and services
  - (c) secretariat support and services
  - (d) communications support and services
  - (e) data protection, freedom of information, information sharing and confidentiality issues in accordance with clause 17
  - (f) research
- 12.4 The cost of the services and advice set out in this section will be paid for by the Scrutiny Host Authority.

## **13. Amendments to these Arrangements**

13.1 These arrangements may be amended by the unanimous agreement of the EKJSC following a recommendation approved by the full Council of each of the Parties.

#### **14. New Membership and Cessation of Membership**

14.1 New Parties may join the EKJSC provided that they are also a party to EKJAC and the full council of the joining Party(ies) and of all the Parties to these arrangements for the time being so resolve.

14.2 A Party ceases to be a member of these arrangements when it ceases to be a party to EKJAC.

14.3 Termination of these arrangements may occur by agreement of all the Parties.

#### **15. Claims and Liabilities**

15.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties. The Parties therefore have agreed that:

(a) where one of the Parties nominated by the EKJSC to act as Scrutiny Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith

(b) a Party carrying out actions in good faith on behalf of the EKJSC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)

15.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

#### **16. Administration**

16.1 The decisions and recommendations of the EKJSC will be communicated to EKJAC and the participating councils as soon as possible after the resolution of the committee.

16.2 Where working on forthcoming decisions of the EKJAC, the EKJSC will endeavour to carry out its functions as part of the EKJAC's process in order to ensure that its findings and recommendations can influence the final decision.

16.3 When considering items before it, the EKJSC will take account of whether an issue could more appropriately be dealt with by one of the Parties or elsewhere.

#### **17. Data Protection, Freedom of Information, Information Sharing & Confidentiality**

17.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

- 17.2 A Party will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the EKJAC (as compared to information held by the Parties to these arrangements).
- 17.3 Each of the each Parties shall:
- (a) treat as confidential all information relating to:
    - (i) the business and operations of the other Parties and/or
    - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
  - (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent
- 17.4 Clause 17.3 shall not apply to the extent that:
- (a) such information was in the possession of the party making the disclosure, without obligation of confidentiality, prior to its disclosure or
  - (b) such information was obtained from a third party without obligation of confidentiality or
  - (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
  - (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998
- 17.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJSC.
- 17.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.
- 17.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.
- 17.8 Notwithstanding the provisions of 17.6 and 17.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.
- 18. Exercise of Statutory Authority**
- 18.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

## Schedule 1

### TERMS OF REFERENCE of the EAST KENT (JOINT SCRUTINY) COMMITTEE

1. Monitor review and scrutinise the actions and decision of the EKJAC.
2. Make recommendations for reconsideration of any decisions made or actions taken and to make recommendations for improvement and/or changes in responsibilities and functions of the EKJAC.
3. Prepare reports and recommendations to the parties on the performance and delivery of the shared services provided by the EKJAC.
4. Propose an annual budget for the EKJSC in accordance with the requirements of the parties.
5. Prepare an annual report to the parties on the performance of these arrangements.
6. Facilitate the exchange of information about the work of the EKJSC and to share information and outcomes from reviews.



## Schedule 2

### ARRANGEMENTS FOR THE OPERATION OF CALL-IN by the EKJSC

1. When a decision is made by EKJAC, a sub-committee of EKJAC or an individual member with delegated authority from EKJAC, or a key decision is made by an officer with delegated authority from EKJAC, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of each of the Parties normally within two days of being made. The Chairman of the EKJSC (and all other members of each of the Parties) will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
2. 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 at 12.00 noon, on the fourth working day after the publication of the decision, unless it is called-in.
3. By 10.00 am on the fourth working day after publication of the decision, the proper officer of the Scrutiny Host Authority shall call-in a decision for scrutiny by the EKJSC if so requested by any member of the EKJSC, and shall then notify the decision maker of the call-in. A meeting of the EKJSC shall then be held within 15 working days of the decision to call-in. Reasons for calling-in a decision should be given and recorded in the agenda.
4. If, having considered the decision, the EKJSC 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 or refer the matter to the full Council of all or any of the Parties. If referred to the decision maker they shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.
5. If, following an objection to the decision, the EKJSC does not meet in the period set out 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 date of the EKJSC meeting, or the expiry of that further 10 working day period, whichever is the earlier.
6. If the matter was referred to full Council of any of the Parties 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 in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive 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 maker, together with Council's views on the decision. That decision maker shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by EKJAC as a whole or a committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.
7. If the Council of any of the Parties to whom the matter has been referred does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

# **East Kent (Joint Arrangements) Committee – Operating Arrangements**

**Canterbury City Council**

**Dover District Council**

**[Kent County Council]**

**Shepway District Council**

**Thanet District Council**

together referred to as 'the Parties'

## **1. Key Principles**

- 1.1 The Executive and full Council of each of the Parties has determined by resolution to establish this joint committee to become effective from 1 June 2008 for the purposes of exercising agreed functions over their 'combined administrative area'.
- 1.2 The joint committee will be established as the East Kent (Joint Arrangements) Committee (EKJAC).
- 1.3 The Parties are committed to a joint committee which provides streamlined decision making; and co-ordination of services across the combined administrative area through mutual co-operation.
- 1.4 The Parties are committed to open and transparent working and proper scrutiny and challenge of the work of the EKJAC.
- 1.5 Any new Parties to these arrangements after they become effective will have all the same rights and responsibilities under these arrangements.

## **2. Definitions**

- 2.1 'Decisions' means those decisions of the Parties delegated from time to time to the EKJAC to discharge.
- 2.2 'A shared service' means a service delivering functions as agreed by two or more of the Parties.
- 2.3 'The combined administrative area' means the local government areas of the city and district authority Parties combined.
- 2.4 'The Parties' means the authorities listed above.
- 2.5 'Voting Member' means the appointed elected members of each of the Parties.
- 2.6 'Host Authority' means the local authority appointed by the Parties under these arrangements to lead on a specified matter or function as set out in paragraphs 14 and 19.

### **3. Objectives**

3.1 The objectives of the East Kent (Joint Arrangements) Committee are to:

- (a) improve services, and secure economy, efficiency and effectiveness in their delivery across both tiers of government in the combined administrative area
- (b) Streamline decision making where joint arrangements already exist
- (c) Develop and agree new areas of joint working
- (d) Enhance mutual co-operation and strategic partnering

### **4. Powers and Functions**

4.1 The EKJAC is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and sections 101(5) and section 102(1) of the Local Government Act 1972 enabling the Parties to perform the functions referred to in the Schedule in the manner set out in these arrangements.

4.2 The functions of the EKJAC shall be those functions or services that are delegated to it by the parties from time to time as approved by resolution of the executive and/or full Council (as appropriate) of such of the parties as are minded to participate in those joint functions and services.

4.3 Any delegations to the EKJAC shall be made in a common form and shall not take effect until agreed by the executive and/or full Council (as appropriate) of all those Parties participating in the services.

### **5. Terms of Reference**

5.1 The terms of reference for the EKJAC are as set out in the Schedule.

### **6. Membership and Voting Rights**

6.1 The EKJAC shall comprise the Leaders and Deputy Leaders of the Council of each of the Parties. The Leader of each Party may nominate two members of their Executive (who have been authorised by the respective Parties to act as substitutes) to substitute for either the Leader or Deputy Leader, as necessary.

6.2 Non-voting members may be co-opted onto the EKJAC from any or all of the Parties or from other public sector partner organisations as the EKJAC may unanimously decide. Co-optees may participate in the debate but may not vote.

### **7. Frequency of Meetings**

7.1 The EKJAC will meet quarterly, but may change the frequency of meetings and call additional meetings as required.

## **8. Agenda Setting and Access to Meetings and Information**

- 8.1 The agenda for the EKJAC shall be agreed by the chairman of the EKJAC following a briefing by relevant officers. Any member of the EKJAC may require that an item be placed on the agenda of the next available meeting for consideration.
- 8.2 There will be a standing item on the agenda of each meeting of the EKJAC for matters referred by the East Kent Joint Scrutiny Committee.
- 8.3 Notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972, as appropriate.

## **9. Sub-Committees**

- 9.1 The EKJAC may establish sub-committees as it may determine by unanimous agreement of the EKJAC.
- 9.2 When establishing a sub-committee the EKJAC will agree the:
- (a) terms of reference for the sub-committee
  - (b) size and membership of the sub-committee including co-optees
  - (c) period for which the sub-committee will remain constituted
  - (d) chairman of the sub-committee or will delegate this decision to the sub-committee
  - (e) mechanism for hosting the sub-committee and sharing the cost amongst the relevant Parties, as appropriate

## **10. Delegation to Sub-Committees and Officers**

- 10.1 The EKJAC may arrange for the discharge of any of its functions by a sub-committee of the EKJAC or an officer of one of the Parties. Any such sub-committee may, subject to the terms of these arrangements and unless the EKJAC or any Voting Member directs otherwise, arrange for the discharge of any of its functions by such an officer.

## **11. Meetings and Procedure**

- 11.1 The Chairman and Vice Chairman of the EKJAC will be appointed by the EKJAC on the basis of the position being rotated annually, as follows, and repeated each five years:

	<b>Chairman and Host Authority</b>	<b>Vice Chairman</b>
Year 1	Canterbury City Council	Shepway District Council
Year 2	Thanet District Council	Dover District Council
Year 3	Shepway District Council	Kent County Council
Year 4	Dover District Council	Canterbury City Council
Year 5	Kent County Council	Thanet District Council

- 11.2 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

11.3 The quorum of the EKJAC will be five with at least one member present from four of the five Parties. If the meeting is inquorate then it shall stand deferred for seven days to meet at the same time and in the same place when the quorum shall be five drawn from any of the Parties.

11.4 The EKJAC may approve rules for meetings and procedure from time to time.

## **12. Decision Making**

12.1 Decisions of the EKJAC will normally be made by consensus. Alternatively, a vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required.

12.2 The EKJAC may recommend to the parties services and/functions which may be considered for joint working.

12.3 A service will only become a shared service after at least two of the parties have resolved to delegate the relevant functions to the EKJAC.

12.4 Where two or more parties have resolved to delegate as mentioned in 12.4, then:

- (a) The service will thereafter be a shared service only in relation to those Parties and
- (b) Those Parties alone will have voting rights at the EKJAC in relation to further decisions as to how that shared service is jointly managed, provided or procured
- (c) The Parties that did not delegate that shared service will not have voting rights in relation to that shared service until or unless they do delegate such service at some future date

## **13. Forward Plan**

13.1 Decisions of the EKJAC which will amount to a Key Decision of any Party shall be included within the Leader of that authority's Forward Plan.

## **14. Host Authorities and Allocation of Roles**

14.1 In order to achieve the objectives of the EKJAC, the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 11.1.

14.2 Staff from the Host Authority who are commissioned to provide services, advice and support to the EKJAC will continue to be employees of the relevant Host Authority.

14.3 Responsibility for the following support services to the EKJAC will be allocated to the Host Authority:

- (a) the provision of legal advice and services
- (b) the provision of financial advice and services
- (c) secretariat support and services
- (d) communications support and services

14.4 The cost of the services and advice set out in this section will be paid for by the Host Authority.

## **15. Amendments to these Arrangements**

15.1 These arrangements may be amended by the unanimous agreement of the EKJAC following a recommendation approved by the Executive and full Council of each of the Parties.

## **16. New Membership and Cessation of Membership**

16.1 New Parties may join the joint committee provided that the Executive and full Council of the joining Party (ies) and of all the Parties to these arrangements for the time being so resolve.

16.2 Any of the Parties may cease to be a party to these arrangements following notice of cessation subsequent to a decision by the relevant Executive and full Council. A minimum of six months notice is required for any Party to leave the EKJAC and in any event, any notice of cessation can only be effective at the end of a municipal year. For the avoidance of doubt, where a Party wishes to withdraw from these arrangements but makes that decision and gives notice within six months of the end of the current municipal year, they may not withdraw from these arrangements until the conclusion of the subsequent municipal year.

16.3 On any of the Parties ceasing to be a party to these arrangements, these arrangements shall continue unless the remaining parties determine that those arrangements shall terminate. The benefits and burdens of such termination shall be agreed between the Parties and in default of such agreement shall be determined in accordance with 17.1.

16.4 Termination of these arrangements may occur by agreement of all the Parties.

## **17. Dispute Resolution**

17.1 Any dispute between the Parties arising out of these arrangements shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the chairman of the Local Government Association and will be carried out in accordance with the provisions of the Arbitration Act 1996 as amended or modified and in force for the time being.

## **18. Claims and Liabilities**

18.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties (or those of the Parties as are engaged in any particular shared service). The Parties therefore have agreed that:

(a) all of the costs attributable to the provision of any shared service shall be shared between those of the Parties that are engaged in the shared service and in such proportions as they shall agree (and if not otherwise agreed then in equal shares)

(b) where one of the Parties nominated by the EKJAC to act in respect of a shared service undertakes actions or incurs liabilities in respect of that shared service on behalf of the EKJAC then it shall be entitled to be indemnified by

the other Parties engaged in that shared service for the appropriate proportion of all its costs and liabilities incurred in good faith

- (c) where one of the Parties nominated by the EKJAC to act as Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
- (d) a Party carrying out actions in good faith on behalf of the EKJAC shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) and/or (c) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)

18.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

## **19. Data Protection, Freedom of Information, Information Sharing & Confidentiality**

19.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

19.2 An authority will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the joint committee (as compared to information held by the Parties to these arrangements).

19.3 Each of the Parties shall:

- (a) treat as confidential all information relating to:
  - (i) the business and operations of the other Parties and/or
  - (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party("Confidential Information") and
- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

19.4 Clause 19.3 shall not apply to the extent that:

- (a) such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure or
- (b) such information was obtained from a third party without obligation of confidentiality or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or

(d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998

19.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKJAC.

19.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.

19.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.

19.8 Notwithstanding the provisions of 19.6 and 19.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

## **20. Exercise of Statutory Authority**

20.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions. The parties may continue to provide the whole or any part of a service at their own cost notwithstanding that the service is also a shared service being provided jointly.



## **The Schedule**

### **TERMS OF REFERENCE of the EAST KENT (JOINT ARRANGEMENTS) COMMITTEE**

1. To exercise the executive and non-executive functions of the parties in order to commission, co-ordinate, provide, procure and/or manage any shared services as are agreed from time to time by two or more of the Parties
2. To provide strategic direction to the officers advising the EKJAC
3. To exercise any of the functions or services that are determined to be a shared service in accordance with these arrangements
4. To develop work programmes and projects in relation to the functions which the parties are minded to be delegated to the EKJAC by the Parties
5. To regularly report to each of the Parties on its activities
6. To respond to reports and recommendations made by the East Kent Joint Scrutiny Committee
7. To monitor the operation of the EKJAC and of any shared service
8. To propose a budget for a shared service to the Parties and to monitor and manage any such budget once approved by them
9. To review these arrangements from time to time and make recommendations to the Parties for improvement and change and to propose (as appropriate) the creation of special purpose vehicles for the achievement of the Objectives, including companies, formal partnerships or consortia, the expansion of these arrangements to include other local authorities, the conclusion of contracts with other persons and the provision of services, supplies and works to other persons

## **Part 9**

# **Functions Outside of Dover District Council**



# **Delegations to the East Kent (Joint Arrangements) Committee**

## **East Kent Shared Services**

**Delegation of Functions associated with the provision of ICT Services, face to face and contact centre customer services and revenues and benefits administration to the East Kent (Joint Arrangements) Committee and the Director of Shared Services (Thanet District Council)**

### **PART 1**

#### **General**

1. The functions delegated in Part 2 of 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 Joint Arrangement Committee:
  - ICT
  - face to face and contact centre customer services
  - revenues and benefits
2. It is contemplated that the East Kent Joint Arrangements Committee will in turn delegate the discharge of these functions to the Director of Shared Services or other of her officers in accordance with the East Kent Joint Arrangements Committee Scheme of Delegation already approved by it on 19 May 2010
3. References to a 'Part' are reference to a Part of this Schedule

### **Part 2**

#### **Delegation of Functions**

4. The East Kent Joint Arrangements Committee hereby delegates the discharge of the functions set out in this Part to the Director of Shared Services (Thanet District Council) pursuant to all powers contained in or having effect under the Local Government Acts of 1972 and 2000.
5. The exercise of the powers and functions set out in this Part 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 relevant 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 relevant Council;
  - (x) authorise any other person to do any of the things mentioned in (i) to (vii) above to the extent permitted by law.
  
- 6. The Director of Shared Services is hereby authorised to discharge on behalf of the East Kent Joint Arrangements Committee 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 council' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement of the relevant Council in force on 31 January 2011.
  - (b) After they have done so, any reference in this Part to any policy, procedure, process or similar administrative statement of practice 'of the council' shall be interpreted as a reference to the relevant policy, procedure process of similar administrative statement as approved by the East Kent Joint Arrangements Committee (or the relevant Council) after 1 February 2011
  
- 7. 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.

8. 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

<b>Column 1 Legislation/ Function</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/Exclusions Limitations/Notes</b>
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 relevant Council;</p> <p>(b) to grant council tax benefit in accordance with any statute or statutory regulations and make determinations and exercise discretion as appropriate, except for matters specifically reserved to the relevant Council;</p> <p>(c) to represent the Billing Authority in any proceedings before the Valuation Tribunal, the Council Tax Benefit and Housing Benefit Appeals Service, and in any proceedings relating to the recovery and enforcement of council tax and penalties before the Magistrates and County Court,;</p> <p>(d) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the relevant Council's prosecution policy and statement on fraud;</p> <p>(e) to administer discretionary housing payments in accordance with legislation and the relevant Council's policy;</p> <p>(f) to complete statutory returns in respect of council tax and council tax benefits and discretionary housing payments;</p>	<p>Statutory returns must be authorised by the Section 151 Officer of the relevant Council</p>

<b>Column 1 Legislation/ Function</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/Exclusions Limitations/Notes</b>
	<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 relevant Council 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 unpaid council tax;</p> <p>(k) to be responsible for the prevention, detection and prosecution of council tax fraud.</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 Benefit take up 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 relevant Council and Committees/Executive;</p>	

<b>Column 1 Legislation/ Function</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/Exclusions Limitations/Notes</b>
	<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 relevant Council's Discretionary Housing Payments policy;</p> <p>(e) to undertake interviews under caution, to issue cautions, administrative penalties and authorise prosecutions in accordance with legislation, and the relevant Council's 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 relevant Council</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 relevant Council;</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.;</p> <p>(c) to complete statutory returns in respect of national non domestic rate;</p>	<p>This includes and recovering money from Business Improvement Districts.</p> <p>Statutory returns must be approved by the Section</p>



<b>Column 1 Legislation/ Function</b>	<b>Column 2 Brief Description</b>	<b>Column 3 Conditions/Exclusions Limitations/Notes</b>
	<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 relevant Council 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 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>	<p>151 Officer of the relevant Council</p>
<p>4. ICT</p>	<p>To provide ICT technical support services to the councils including:</p> <p>network infrastructure both LAN and WAN solutions, hardware infrastructure, internet</p>	

Column 1 Legislation/ Function	Column 2 Brief Description	Column 3 Conditions/Exclusions Limitations/Notes
	<p>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 councils 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>
<p>5. Customer Services</p>	<p>To provide 'front of house' contact with the public wishing to make enquiries of the councils or to access services in relation to any of its functions whether that contact is made in person, by telephone, by mail or e-mail or the websites of any of the councils, including but not limited to</p> <p>(i) issuing application forms for access to services.</p> <p>(ii) receiving payments due to the councils 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 councils</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 councils.</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 functions of the councils</p>

## Schedule 2

The East Kent Joint Arrangements Committee scheme of delegation of functions to officers

### **Introduction**

This scheme has been adopted by the East Kent Joint Arrangements Committee and is the list of delegations to officers under section 101 of the Local Government Act 1972 (as amended), section 20 of the Local Government Act 2000 Regulation 11(4) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all of their powers enabling delegations to officers. It is adopted with the intention of giving a clear transparent and accountable decision making process.

'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 and the East Kent Joint Scrutiny Committee are constituted and their powers defined.

'The Committee' means the East Kent (Joint Arrangements) Committee.

'The council' means Thanet District Council as host authority by whom the officers will be employed.

'The Department' means the East Kent Shared Services department under the Directorship of the Director of Shared Services.

'The Director of Shared Services' means the chief officer appointed by the council and primarily responsible for the development and delivery of such shared services as the parties decide.

'The Parties' means as the context requires any two, three or all of Canterbury City Council, Dover District Council, the District Council of Shepway and Thanet District Council.

1. Officers may only exercise the delegated powers in this scheme in accordance with:
  - 1.1 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.
  - 1.2 The Constitution of the council where relevant including standing orders, contract standing orders and financial regulations.
  - 1.3 The revenue and capital budgets of the Committee, subject to any variation thereof which is permitted by the council's Financial Regulations.
  - 1.4 Consideration of any relevant policy adopted by the Committee.
2. Officers may not exercise delegated powers where –
  - 2.1 The matter is reserved to the Committee by the arrangements.
  - 2.2 The matter is a function which cannot by law be discharged by an officer.

- 2.3 The Committee or a sub-committee has determined that the matter should be discharged otherwise than by an officer.

Where an officer has delegated powers the committee or sub-committee (as appropriate) can still exercise that power if it considers it is appropriate to do so.

3. Officers may not exercise delegated powers in a way which is contrary to the policies and plans approved by or on behalf of the Committee.
4. If for any reason it is not practical to consult a person required to be consulted in the exercise of a delegation then the person with the delegated powers must consult someone else they reasonably consider to be an appropriate substitute consultee.
5. Delegations to the Director of Shared Services or other identified officers may be exercised by other officers whom they authorise to act on their behalf, provided that the delegation is recorded in writing.
6. The delegated powers held by an officer may be exercised by the line manager of that officer (or by the line manager's line manager) if:
  - That post is vacant.
  - The post holder is not at work for any reason.
  - The decision is urgent and the reasons are recorded in writing.
7. The delegations in this Scheme of Delegation include the discharge of both executive and non-executive functions.
8. Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment to or re-enactment of the same.
9. Where an officer has delegated authority to discharge functions:
  - by virtue of any other decision by the parties; or
  - through a specific decision the committee, or a sub-committee, either before or after the adoption of this Scheme,

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

## **Powers delegated to the Director of Shared Services**

### **Business cases and delivery of services**

1. To develop shared service business cases work programmes and projects in relation to the functions which all or not less than two of any of the parties are minded to delegate to the EKJAC.
2. With the assistance if necessary of the appropriate Chief Executive of any of the parties to obtain from his or her council any information required in preparing a shared service business case.
3. Once two or more of the parties have resolved a services is to be shared to implement the business case and deliver the service as defined therein. [E/C]

4. To take action which is required as a matter of urgency in the interests of the committee, in consultation with the Chair, if time permits. [E/C]
5. To manage the Department. [E/C]

### **Financial**

6. 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. [E]
7. Entry into contract documentation following tender/bid acceptance (subject to the provisions of Financial Regulations and Contract Standing Orders of the council relating to the execution of contracts under seal). [E/C]
8. 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 council and ensuring sufficient budgetary provision exists. [E/C]
9. The assignment or novation of a contract. [E/C]
10. The approval of the appointment of or the acceptance of the tender of a sub-contractor or supplier for specialised work or material provided that this does not result in the budget provision for the works as a whole being exceeded. [E/C]
11. Virement between heads of expenditure of up to the limit specified in the council's Financial Regulations for a Director provided that such virement is in accordance with the conditions for virements in such Financial Regulations. [E/C]
12. Provision of reasonable hospitality to representatives of other authorities, visiting a department of premises under the Director's control subject to agreement by the Chief Executives of each of the parties for expenditure in excess of £500. [E]
13. To negotiate and agree variations in contracts arising out of statutory requirements subject to adequate budgetary provision being available. [E/C]

### **Human resources**

14. To appoint all staff subject to the council's recruitment procedures. [E/C]
15. Dealing with all staffing matters which can be contained within budget. [C]
16. Granting acceleration of increments for any staff within their substantive grade for merit and ability. [C]
17. Determination of requests or recommendations for honoraria, gratuities and responsibility allowances. [C]
18. The determination of applications for paid and unpaid leave:
  - 18.1 for trade union training with special regard to the council's policies on equalities and to courses directed towards equalities issues;
  - 18.2 for health and safety training;

- 18.3 for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union;
  - 18.4 for an employee to attend meetings etc with pay as a member of another local authority, or similar public body on condition that the employee only receives the difference between pay and any amount receivable under local government regulations etc. This does not include an employee attending such a body in her/his official capacity which would be as part of their official duties;
  - 18.5 for personal or domestic reasons in accordance with conditions of service;
  - 18.6 for maternity, parental and dependant's support leave;
  - 18.7 for compassionate leave where there are urgent personal or domestic reasons for needing additional paid leave in accordance with conditions of service. [C]
- 19. Determination of extensions of sickness allowance in consultation with the Head of East Kent Shared Human Resources Service. [C]
  - 20. Determination of requests for extensions of service except that of first and second tier officers. [C]
  - 21. Determination of casual or essential car users allowance or leased car or cash in lieu to officers subject to compliance with the provisions agreed by the council. [C]
  - 22. Determination of planned overtime for officers above Scale 6. [C]
  - 23. Determination of claims for payment of subsistence allowances on the basis that only claims in respect of expenditure incurred within six months of the date of the application will be met. [C]
  - 24. Determination of proposals to attend service training courses. [C]
  - 25. Determination of staff grievances and referral to the Chief Executives of the parties where resolution is not possible at departmental level. [C]
  - 26. Discipline, suspension and/or dismissal of employees up to third tier level. [C]
  - 27. Authority to assimilate staff on appointment, promotion or regrading where appropriate within the approved grade having regard to all the circumstances. [C]
  - 28. Compliance with the provisions of the Health and Safety Policy of the council. [C/E]
  - 29. To work out appropriate managerial and operational consequences and to refine as necessary the structure of the Department in order to deliver the aims, objectives and changing priorities of the Committee. [C/E]
  - 30. To deal with redundancies and approve applications from employees for early retirement (including ill health retirements) in accordance with council policies and following referral to the council's doctor as necessary and reporting all approvals to the Committee. [C]

31. To be the Proper Officer responsible for the list of politically restricted posts within the Department. [C]

**General**

32. Where the Director considers that legal proceedings are needed in connection with the effective management of any service for which he or she is responsible that may, subject to consultation with the chief legal officer of the council instruct that officer to take those proceedings subject to reporting the outcome to the next committee meeting as appropriate. [C/E]
33. To take any action which the committee has the power to take in order to manage any of their service areas.
34. To publicise the services they provide. [E/C]
35. To deal with issues relating to the Commission for Local Administration to the Committee.

## Delegations to East Kent Housing

<b>Co-ordination with corporate policy in relation to housing element of:</b>	<b><u>Council</u></b>	<b><u>SSV</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



# **East Kent Housing Owners Committee Operating Arrangements**

**Canterbury City Council**

**Dover District Council**

**Shepway District Council**

**Thanet District Council**

together referred to as 'the Parties'

## **1. Key Principles**

- 1.1 The Executive and full Council of each of the Parties has determined by resolution to establish this joint committee to become effective from 1 April 2010 for the purposes of exercising agreed functions in connection with the management of housing stock (and related activities) by East Kent Housing Limited across their 'combined administrative area'.
- 1.2 The joint committee will be established as the EKH Owners Committee (EKHOC).
- 1.3 The Parties are committed to a joint committee which provides oversight and decision making and co-ordination of services in relation to the management of housing stock and related activities by East Kent Housing Limited across the combined administrative area through mutual co-operation.
- 1.4 The Parties are committed to open and transparent working and proper scrutiny and challenge of the work of the EKHOC.
- 1.5 Any new Parties to these arrangements after they become effective will have all the same rights and responsibilities under these arrangements.
- 1.6 The Parties agree that, in the event of any conflict between the terms of these Operating Arrangements and the terms of the Owners Agreement, the terms of the Owners Agreement will prevail.

## **2. Definitions**

- 2.1 'Decisions' means those decisions of the Parties delegated from time to time to the EKHOC to discharge.
- 2.2 'A shared service' means a service delivering functions as agreed by two or more of the Parties.
- 2.3 'The combined administrative area' means the local government areas of the city and district authority Parties combined.

- 2.4 'The Parties' means the authorities listed above.
- 2.5 'Voting Member' means the appointed elected members of each of the Parties.
- 2.6 'Host Authority' means the local authority appointed by the Parties under these arrangements to lead on a specified matter or function as set out in paragraphs 14 and 19.
- 2.7 'the ALMO' means East Kent Housing Limited (company number 07489230).
- 2.8 'Housing Management Services' means the services provided by the ALMO for the Parties from time to time.
- 2.9 'the Owners Agreement' means the agreement between the Parties and the ALMO dated 1 April 2011 as amended or varied from time to time.

### **3. Objectives**

The objectives of the EKHOC are to:

- (a) act as the final decision making body for decisions to be made jointly by the Parties under the terms of the Owners Agreement in circumstances where all the Parties (through their delegated officer) have not reached unanimity;
- (b) act as the final arbiter of disputes arising under the Owners Agreement, as referred to in clause 9 thereof.

### **4. Powers and Functions**

- 4.1 The EKHOC is established under section 20 of the Local Government Act 2000 and Regulations 4, 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and sections 101(5) and section 102(1) of the Local Government Act 1972 enabling the Parties to perform the functions referred to in the Schedule in the manner set out in these arrangements.
- 4.2 The functions of the EKHOC shall be those functions or services that are delegated to it by the parties from time to time as approved by resolution of the executive and/or full Council (as appropriate) of such of the parties as are minded to participate in those joint functions and services.
- 4.3 Any delegations to the EKHOC shall be made in a common form and shall not take effect until agreed by the executive and/or full Council (as appropriate) of all those Parties participating in the services.

### **5. Terms of Reference**

The terms of reference for the EKHOC are as set out in the Schedule.

## **6. Membership and Voting Rights**

The EKHOC shall comprise the Leaders of the Council of each of the Parties. The Leader of each Party may nominate one member of their Executive (who have been authorised by the respective Parties to act as substitutes) to substitute for the Leader as necessary.

## **7. Frequency of Meetings**

The EKHOC will meet:

- (a) at least once between 1 December and 28 February annually and
- (b) whenever it is necessary for a Joint Decision of the Parties to be considered under the terms of the Owners Agreement and
- (c) at such other times as may be required.

## **8. Agenda Setting and Access to Meetings and Information**

8.1 The agenda for the EKHOC shall be agreed by the chairman of the EKHOC following a briefing by relevant officers. Any member of the EKHOC may require that an item be placed on the agenda of the next available meeting for consideration.

8.2 Notice of meetings and access to agendas and reports will be in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Amendment Regulations 2000 and 2002 or sections 100A-K and Schedule 12A of the Local Government Act 1972, as appropriate.

## **9. Delegation to Officers**

The EKHOC may arrange for the discharge of any of its functions by an officer of one of the Parties.

## **10. Meetings and Procedure**

10.1 The Chairman and Vice Chairman of the EKHOC will be appointed by the EKHOC on the basis of the position being rotated annually, as follows, and repeated each four years:

	<b>Chairman and Host Authority</b>	<b>Vice Chairman</b>
Year 1	Canterbury City Council	Shepway District Council
Year 2	Thanet District Council	Dover District Council
Year 3	Shepway District Council	Thanet District Council
Year 4	Dover District Council	Canterbury City Council

10.2 In the absence of the chairman and the vice chairman at a meeting, the meeting will elect a chairman for that meeting.

10.3 The quorum of the EKHOC will be four with one member present from each of the four Parties. If the meeting is inquorate then it shall stand deferred for seven days to meet at the same time and in the same place when the quorum shall be three drawn from any of the Parties.

10.4 The EKHOC may approve rules for meetings and procedure from time to time.

## **11. Decision Making**

Decisions of the EKHOC will normally be made by consensus. Alternatively, a vote shall be taken where the chairman or any Voting Member requests that a vote be taken. The vote will be by way of a show of hands. A simple majority shall be required in order for a resolution to be passed. In the case of an equality of votes the Chairman shall have a casting vote.

## **12. Forward Plan**

Decisions of the EKHOC which will amount to a Key Decision of any Party shall be included within the Leader of that authority's Forward Plan.

## **13. Host Authorities and Allocation of Roles**

13.1 In order to achieve the objectives of the EKHOC, the Parties will appoint a Host Authority which is for the time being the Authority shown as the Chairman and Host Authority in the table at clause 10.1.

13.2 Staff from the Host Authority who are commissioned to provide services, advice and support to the EKHOC will continue to be employees of the relevant Host Authority.

13.3 Responsibility for the following support services to the EKHOC will be allocated to the Host Authority:

- (a) the provision of legal advice and services
- (b) the provision of financial advice and services
- (c) secretariat support and services
- (d) communications support and services

13.4 The cost of the services and advice set out in this section will be paid for by the Host Authority.

## **14. Amendments to these Arrangements**

These arrangements may be amended by the unanimous agreement of the EKHOC following a recommendation approved by the Executive and full Council of each of the Parties.

## **15. New Membership and Cessation of Membership**

15.1 Subject to the provisions of the Owners Agreement, new Parties may join the joint committee provided that the Executive and full Council of the joining Party (ies) and of all the Parties to these arrangements for the time being so resolve.

15.2 Any of the Parties which ceases to be a member of the ALMO shall cease to be a party to these arrangements on the date of such cessation.

15.3 On any of the Parties ceasing to be a party to these arrangements, these arrangements shall continue unless the remaining parties determine that those arrangements shall terminate. The benefits and burdens of such termination shall be agreed between the Parties and in default of such agreement shall be determined in accordance with 16.1.

15.4 Termination of these arrangements may occur by agreement of all the Parties.

## **16. Dispute Resolution**

Any dispute between the Parties arising out of these arrangements shall be referred to a single arbitrator to be agreed between the Parties, or, where no agreement can be reached, and having regard to the nature of the dispute, by an arbitrator nominated by the chairman of the Local Government Association and will be carried out in accordance with the provisions of the Arbitration Act 1996 as amended or modified and in force for the time being.

## **17. Claims and Liabilities**

17.1 The purpose of these arrangements and any actions taken under them is to assist all of the Parties (or those of the Parties as are engaged in any particular shared service). The Parties therefore have agreed that:

- (a) where one of the Parties nominated by the EKHOc to act on its behalf in respect of the Services undertakes actions or incurs liabilities in respect of the Services on behalf of the EKHOc (but not otherwise) then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
- (b) where one of the Parties nominated by the EKHOc to act as Host Authority undertakes actions or incurs liabilities in that respect then it shall be entitled to be indemnified by the other Parties for the appropriate proportion of all its costs and liabilities incurred in good faith
- (c) a Party carrying out actions in good faith on behalf of the EKHOc shall not (other than in the case of fraud and/or clear bad faith) be liable to claims from the other Parties (and there shall be no right of set-off against any claim for indemnity under (b) above) on the grounds that the actions that were taken were not the proper actions carried out properly or that the costs and liabilities incurred were not reasonably and properly incurred (as long as they were in fact incurred)

17.2 Each of the Parties shall at all times take all reasonable steps within its power to minimise and mitigate any loss for which it is seeking reimbursement from any of the other Parties.

## **18. Data Protection, Freedom of Information, Information Sharing & Confidentiality**

18.1 Subject to the specific requirements of this clause, each of the Parties shall comply with its legal requirements under data protection legislation, freedom of information and associated legislation, and the law relating to confidentiality.

18.2 An authority will be appointed as a Host Authority for the purposes of ensuring compliance with any legislative or legal requirements relating to these issues should they arise directly in relation to the joint committee (as compared to information held by the Parties to these arrangements).

18.3 Each of the Parties shall:

- (a) treat as confidential all information relating to:

- (i) the business and operations of the other Parties and/or
- (ii) the business or affairs of any legal or natural person in relation to which or to whom confidential information is held by that Party

("Confidential Information") and

- (b) not disclose the Confidential Information of any other of the Parties without the owner's prior written consent

18.4 Clause 18.3 shall not apply to the extent that:

- (a) such information was in the possession of the Party making the disclosure, without obligation of confidentiality, prior to its disclosure or
- (b) such information was obtained from a third party without obligation of confidentiality or
- (c) such information was already in the public domain at the time of disclosure otherwise than through a breach of these arrangements or
- (d) disclosure is required by law (including under Data Protection Legislation, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004) or disclosure is permitted by the Human Rights Act 1998

18.5 The Parties may only disclose Confidential Information of another of the Parties to staff who need to know by reason of their work. Each of the Parties shall ensure that such staff are aware of, and comply with, these confidentiality obligations and that such information is not used other than for the purposes of the EKHOc.

18.6 If any of the Parties receives a request for information under the Freedom of Information Act 2000 and/or the Environmental Information Regulations 2004 then the other Parties shall (at their own expense) assist and co-operate to enable the request to be dealt with.

18.7 If a request for information is received then the Party receiving it shall copy it to the other Parties and consider when making its decisions any views of the other Parties.

18.8 Notwithstanding the provisions of 18.6 and 18.7 it shall be the Party receiving the request that is responsible for determining at its absolute discretion how to reply to the request.

## **19. Exercise of Statutory Authority**

19.1 Without prejudice to these arrangements, nothing in these arrangements shall be construed as a fetter or restriction on the exercise by any of the parties of their statutory functions.

## **The Schedule**

### **TERMS OF REFERENCE of the EKH OWNERS COMMITTEE**

1. To act as the final decision making body for decisions to be made jointly by the Parties under the terms of the Owners Agreement in circumstances where all the Parties (through their delegated officer) have not reached unanimity.
2. To act as the final arbiter of disputes arising under the Owners Agreement, as referred to in clause 9 thereof.
3. To exercise any of the functions or services that the Parties may from time to time unanimously decide.

## **East Kent (Housing Management) Committee Procedure Rules**

These Rules are made supplemental to clause 10.4 of the EKH Owners Committee operating arrangements ("operating arrangements") and are to be read in conjunction with them. In the event of conflict the operating arrangements shall prevail. "Joint Committee" means the EKH Owners Committee. Words and phrases not otherwise defined in these Rules shall have the meanings given them in the operating arrangements.

### **1. The operation of the Joint Committee**

#### **1.01 Who may make decisions**

The arrangements for the discharge of functions are:

- (i) the Joint Committee as a whole;
- (ii) an officer of one of the Parties.

#### **1.02 Sub-delegation of functions**

- (a) Where the Joint Committee are acting as a whole, they may delegate further to an officer.
- (b) Even where functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

#### **1.03 The Joint Committee's scheme of delegation**

The Joint Committee's scheme of delegation will be subject to adoption by it and may only be amended by it. It will contain any limitations or conditions.

#### **1.04 Joint Committee meetings – frequency and venue**

The Joint Committee will meet at least once between 1 December and 28 February annually, and whenever it is necessary for a Joint Decision of the Parties to be considered under the terms of the Owners Agreement and at such other times as may be required.

A meeting of the Joint Committee shall be summoned by the Chief Executive of the Host Authority who will give a minimum of five working days notice (or less in the case of urgency) or any other date convenient to the Chairman subject to the requirements of legislation.

#### **1.05 Meetings of the Joint Committee**

Meetings of the Joint Committee will be held in public except in so far as the matters for decision relate to issues which can be dealt with in private in accordance with the Access to Information requirements of the Local Government Act 1972.



## 1.06 **Quorum**

The quorum of the Joint Committee is as provided for in paragraph 10.3 of the operating arrangements.

## 2. **Conduct of meetings**

### 2.01 **Chair**

The Chairman will preside at any meeting of the Joint Committee at which he/she is present, and in his/her absence the Vice Chairman will preside. In the absence of both the Chairman and Vice Chairman the members present shall appoint another person to preside.

### 2.02 **Attendance**

Members of the public (including other members of the Parties) may attend all meetings of the Joint Committee except when exempt or confidential information is being considered where the press and public, may be excluded by resolution of the Joint Committee in accordance with the Local Government Act 1972.

### 2.03 **Order of business**

Meetings of the Joint Committee will include the following business:

- (i) consideration of the minutes of the last meeting;
- (ii) apologies for absence;
- (iii) declarations of interest, if any
- (iv) matters referred to the Joint Committee by the East Kent Joint Scrutiny Committee whether by call-in or otherwise;
- (v) consideration of reports from the Officers;
- (vi) matters set out in the agenda for the meeting, which shall indicate which are key decisions, and which are Joint Decisions for the purposes of the Owners Agreement;
- (vii) advice to Leaders on the items for their Forward Plans;

### 2.04 **Consultation**

Reports 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.

### 2.05 **Timescales**

In considering matters in relation to budgetary issues the Joint Committee will have due regard to any appropriate timescale within which budgets have to be approved by the Parties.

## 2.06 Key decisions

Decisions of the Joint Committee which are key decisions shall only be taken provided that the matter in question is contained within each of the Parties Forward Plan or if not in all or any of the Forward Plans that decision can only be taken if any delay likely to be caused by the call-in process would seriously prejudice the interests of any of the parties or the public interest. The record of the decision and the notice by which it is made public shall state whether, in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call-in. The Chairman of EKJSC and the members of each of the parties affected by the decision 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 of EKJSC, the consent of the Vice-Chairman shall be required. In the absence of both the Chairman and Vice-Chairman, the consent of the Head of Paid Service for that party (or his/her nominee) shall be required. Decisions taken as a matter of urgency must be reported to the next available Full Council meetings of each of the parties, together with the reasons for urgency.

## 2.07 Recording of decisions

Following a meeting of the Joint Committee at which a report has been received and at which a decision has been made, the Host Authority shall ensure that a written statement is kept which must include the following:

- (i) record of the decision;
- (ii) record of reasons for the decision;
- (iii) details of alternative options considered;
- (iv) record of any conflict of interest declared; and
- (v) any dispensation granted by Standards Committee, where appropriate.

No decision will be made by the Joint Committee unless there is present at the meeting the Head of Paid Service of the host authority (or his representative) or the officer responsible for the housing management service is present or their representative and the Proper Officer for recording decisions is present which for this purpose shall be an officer of the host authority who is not the Head of Paid Service.

A written statement of the decision taken will be produced by the Proper Officer within two clear working days following the Joint Committee.

As soon as reasonably practicable following any decision of the Joint Committee which relates to any matter which is a Joint Decision or the resolution of a dispute for the purposes of the Owners Agreement, the Joint Committee shall take such steps as are necessary to notify:

- (i) the ALMO; and
- (ii) each of the Parties;

of its decision in relation to the matter.



## Appendix 1

### Proper Officer Appointments for Specified Statutory Purposes

Act and Section	Proper Officer's Function	Proper Officer	Officer Appointed to Act in Absence of Proper Officer
<b>National Assistance Act 1948 (as amended)</b>			
47	Removal to suitable premises of persons in need of care and attention	Consultant for Communicable Disease Control in Kent	Any equivalently medically qualified deputising officer (as designated by the Kent Health Protection Unit or any successor agency)
<b>Local Government Act 1972</b>			
13(3)	Parish Trustee	Chief Executive	Head of Democratic Services
83(1)	Witness and receipt of declaration of acceptance of office	Chief Executive	Solicitor to the Council
84	Receipt of declaration of resignation	Chief Executive	Head of Democratic Services
88(2)	Convening of meeting to fill a casual vacancy in the office of Chairman	Chief Executive	Solicitor to the Council
89(1)(b)	Receipt of notice of casual vacancy from local government electors	Chief Executive	Head of Democratic Services
100(B)(2)	To exclude from inspection by members of the public the whole or any part of a report during which, in his opinion, the meeting is likely not to be open to the public	The relevant Head of Service who originates the report (in consultation with the Solicitor to the Council)	Solicitor to the Council

<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(B)(7)(C)	To supply newspapers with copies of any documents other than the agenda or reports supplied to members of the Council in connection with any item	Chief Executive	Section 151 Officer
100(C)(2)	If the minutes of proceedings during which a meeting was not open to the public disclose exempt information, and are therefore not open to inspection by the public, to make a written summary of such proceedings which provides such a record without disclosing the exempt information	Director of Governance and Monitoring Officer	Solicitor to the Council
100(D)(1)(a) 100(D)(5)(a)	To determine the documents which constitute background papers for a report and to compile a list of such papers to be available for inspection by the public	The relevant Head of Service of the division which originates the report	Solicitor to the Council
100(F)(2)	To determine that a document is not required to be open for inspection by Members because it discloses exempt information falling within any of paragraphs 1 to 7 of Part 1 of Schedule 12A to the Act	Solicitor to the Council	Principal Solicitor
115(2)	Receipt of money due from officers	Section 151 Officer	Head of Finance
146(1)(a)&(b)	Declarations and certificates with regard to securities	Section 151 Officer	Head of Finance
151	Administration of Financial Affairs	Section 151 Officer	Head of Finance
191	Functions with respect to Ordnance Survey	Chief Executive	Solicitor to the Council

<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>
210(6) & (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	Chief Executive	
225(1)	Deposit of Documents	Chief Executive	Solicitor to the Council
229(5)	Certification of Documents	Chief Executive	Solicitor to the Council
234	Signing any notice, demand, requisition, direction, order, regulation or similar documents which they are authorised to make	Chief Executive	Solicitor to the Council
234(1)	Authentication of Photographic Documents	Chief Executive	Solicitor to the Council
236(9) & (10)	Distribution of copies of Byelaws	Chief Executive	Solicitor to the Council
238	Certification of printed copies of Byelaws	Chief Executive	Solicitor to the Council
Schedule 12 paragraph 4(2)(b)	Summonses to Council Meetings	Chief Executive	Solicitor to the Council
Schedule 12 paragraph 4(3)	Receipt of notices regarding address to which summonses to meetings is to be sent	Chief Executive	Solicitor to the Council
Schedule 14 paragraph 25(7)	Certification of Resolution relating to enactments applying	Chief Executive	Director of Governance
Schedule 16 paragraph 28	Deposit of Lists of Buildings of Special Architectural Interest	Chief Executive	Head of Regeneration and Development

<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 Government (Miscellaneous Provisions) Act 1976</b>			
41	Authentication of Resolutions and Minutes of Proceedings, etc	Chief Executive	Solicitor to the Council
<b>National Assistance Act 1948</b>			
47	Persons in need of care and attention	Chief Executive	Head of Regulatory Services
<b>Rent (Agriculture) Act 1976</b>			
Schedule 4	Administration of provisions of Act	Chief Executive	Director of Finance, Housing and Community
<b>Public Health (Ships) Regulations 1979</b>			
All		Consultant for Communicable Disease Control in Kent	Any equivalently medically qualified deputising officer (as designated by the Kent Health Protection Unit or any successor agency)
<b>Representation of the People Act 1983</b>			
8 & 52	Electoral Registration Officer and person to act in absence of Registration Officer	Chief Executive	Head of Democratic Services
83	Returning Officer for District, Parish & Community Council Elections	Chief Executive	Head of Democratic Services

<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>The Parish and Community Meetings (Polls) Rules 1987</b>			
Rule 4	Returning Officer for Parish and Community Meetings (Polls)	Chief Executive	Head of Democratic Services
<b>The Health Protection (Notification) Regulations 2010</b>			
2, 3 & 6	Control of Notifiable Diseases	Consultant for Communicable Disease Control in Kent	Any equivalently medically qualified deputising officer (as designated by the Kent Health Protection Unit or any successor agency)
<b>Public Health (Control of Diseases) Act 1984</b>			
10 & 11	Control of Notifiable Diseases and Food Poisoning	Consultant for Communicable Disease Control in Kent	Any equivalently medically qualified deputising officer (as designated by the Kent Health Protection Unit or any successor agency)
<b>Local Elections (Parishes and Communities) Rules 2006</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	Head of Democratic Services
<b>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	Section 151 Officer	Head of Finance



<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 Government and Housing Act 1989</b>			
4	Head of Paid Service	Chief Executive	
5 & 5A	Monitoring Officer	Director of Governance	Solicitor to the Council
15-17	Political Balance on Committees, etc	Chief Executive	Head of Democratic Services
<b>The Local Government (Committees and Political Groups) Regulations 1990</b>			
All		Chief Executive	
<b>Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000</b>			
All		Chief Executive	
<b>Freedom of Information Act 2000</b>			
All	Provide information as stipulated in the Act	Monitoring Officer	Corporate Support Manager

**Notes** (1) In the absence of both the Proper Officer and the Officer appointed to act in his/her absence, the person undertaking the appropriate duties of the respective posts at that time is employed to act.

(2) In relation to any other statutory provision requiring the performance of any act or function by the "Proper Officer" and where the Council has not made specific provision, the Proper Officer shall be the Head of Service of the division whose functions are most closely associated with the act or function in question.

## Proper Officer Appointments for Specified Purposes

*(references in the Constitution)*

PAGE	PARAGRAPH		Proper Officer	Deputy
<b><u>Council Procedure Rules</u></b>				
168	3.1	Calling extraordinary meetings	Chief Executive	Monitoring Officer
170	5	Time and place of meetings	Chief Executive	Monitoring Officer
170	6	Notice of and summons to meetings	Head of Democratic Services	Team Leader – Democratic Support
171	11.3	Notice of questions	Head of Democratic Services	Team Leader – Democratic Support
172	11.5	Scope of questions	Monitoring Officer	Deputy Monitoring Officer
172	11.6	Record of questions	Head of Democratic Services	Team Leader – Democratic Support
173	12.3	Notice of questions	Head of Democratic Services	Team Leader – Democratic Support
174	12.6	Timing	Head of Democratic Services	Team Leader – Democratic Support
174	13.1	Notice	Head of Democratic Services	Team Leader – Democratic Support
183	26	Cancellation of a Council meeting	Chief Executive	Monitoring Officer
<b><u>Access to Information Procedure Rules</u></b>				
184	6(c)	Supply of copies	Monitoring Officer	Deputy Monitoring Officer
185	8.1	List of background papers	Appropriate Head of Service	Appropriate Service Manager
188	11	Exclusion of access by the public to reports	Monitoring Officer	Deputy Monitoring Officer
189	14.2	Contents of Forward Plan	Monitoring Officer	Deputy Monitoring Officer
190	15	General exceptions	Monitoring Officer	Deputy Monitoring Officer

PAGE	PARAGRAPH		Proper Officer	Deputy
191	17.1	When an Overview and Scrutiny Committee can require a report	Monitoring Officer	Deputy Monitoring Officer
191	18	Record of decisions	Monitoring Officer	Deputy Monitoring Officer
192	20	Notice of private meetings of the Executive	Monitoring Officer	Deputy Monitoring Officer
192	21	Officers	Monitoring Officer	Deputy Monitoring Officer
193	22.3	Record of individual decision	Appropriate Head of Service	Appropriate Service Manager
<b><u>Budget and Policy Framework Procedure Rules</u></b>				
195	2(b)	Process for developing the framework	Head of Democratic Services	Team Leader – Democratic Support
196	2(f)	Process for developing the framework	Head of Democratic Services	Team Leader – Democratic Support
<b><u>Leader and Executive Procedure Rules</u></b>				
200	1.4(b)	The Council's Scheme of Delegations and Executive Functions	Monitoring Officer	Deputy Monitoring Officer
202	2.5	Who can put items on the executive agenda?	Chief Executive	Monitoring Officer
<b><u>Overview and Scrutiny Procedure Rules</u></b>				
205	4	Meetings of the Overview and Scrutiny Committee	Monitoring Officer	Deputy Monitoring Officer
206	11	Agenda items	Head of Democratic Services	Team Leader – Democratic Support
208	13	Reports from Overview and Scrutiny Committees	Head of Democratic Services	Team Leader – Democratic Support
209	14(a)	Making sure that Overview and Scrutiny reports are considered by the Executive	Head of Democratic Services	Team Leader – Democratic Support
209	14(c)	Making sure that Overview and Scrutiny reports are considered by the Executive	Head of Democratic Services	Team Leader – Democratic Support
210	16(b)	Members and officers giving account	Head of Democratic Services	Team Leader – Democratic Support

<b>PAGE</b>	<b>PARAGRAPH</b>		<b>Proper Officer</b>	<b>Deputy</b>
211	18(c)	Call-in	Head of Democratic Services	Team Leader – Democratic Support
212	18(h)	Call-in	Head of Democratic Services	Team Leader – Democratic Support
216	21	Matters within the remit of more than one overview and scrutiny committee	Head of Democratic Services	Team Leader – Democratic Support
<b><u>Prescribed Standing Orders</u></b>				
292	3(1)	Executive arrangements	Head of East Kent Human Resources Partnership	Nominee
<b><u>Standards Committee</u></b>			Monitoring Officer	Deputy Monitoring Officer
<b>Declarations of Members Interests</b>			Monitoring Officer	Deputy Monitoring Officer
<b>Any proper officer function not dealt with elsewhere</b>			Monitoring Officer	Deputy Monitoring Officer