

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

Gibson Building

Gibson Drive

Kings Hill, West Malling

Kent ME19 4LZ

West Malling (01732) 844522

To: MEMBERS OF THE COUNCIL

Dear Sir/Madam

I hereby summon you to attend a meeting of the Tonbridge and Malling Borough Council which will be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 14th July, 2015 at 7.30 pm, when the following business is proposed to be transacted:-.

PART 1 - PUBLIC

- | | | |
|----|--|---------|
| 1. | Apologies for absence | 3 - 4 |
| 2. | Declarations of interest | 5 - 6 |
| | To declare any interests in respect of recommended items | |
| 3. | Minutes | 7 - 20 |
| | To confirm as a correct record the Minutes of the meeting of Council held on 19 May 2015 | |
| 4. | Mayor's Announcements | 21 - 22 |
| 5. | Questions from the public pursuant to Council Procedure Rule No 5.6 | 23 - 24 |
| 6. | Questions from Members pursuant to Council Procedure Rule No 5.5 | 25 - 26 |
| 7. | Leader's Announcements | 27 - 28 |

8. Reports, Minutes and Recommendations 29 - 30

To receive and consider reports, minutes and recommendations from the meetings of the Cabinet and Committees set out in the Minute Book and officers' reports on any matters arising from them, and to receive questions and answers on any of those reports. Matters for recommendation to the Council are indicated below at items 9 to 12.

9. Risk Management Strategy 31 - 38

Item CB 15/40 referred from Cabinet minutes of 24 June 2015

10. Local Code of Corporate Governance 39 - 46

Item CB 15/41 referred from Cabinet minutes of 24 June 2015

11. Treasury Management Update and Annual Report for 2014/15 47 - 50

Item CB 15/42 referred from Cabinet minutes of 24 June 2015

12. Human Resources Strategy Update 51 - 62

Item GP 15/12 referred from General Purposes Committee minutes of 29 June 2015

13. Changes to Constitution - Dismissal of Statutory Officers 63 - 84

14. Appointments to Outside Bodies 85 - 86

15. Sealing of Documents 87 - 88

To authorise the Common Seal of the Council to be affixed to any Contract, Minute, Notice or other document requiring the same.

JULIE BEILBY
Chief Executive
Monday, 6 July 2015

Apologies for absence

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Agenda Item 2

Declarations of interest

To declare any interests in respect of recommended items.

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

Tuesday, 19th May, 2015

At the Statutory Annual Meeting of the Tonbridge and Malling Borough Council held at Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 19th May, 2015

Present: Her Worship the Mayor (Councillor Mrs S L Luck), the Deputy Mayor (Councillor O C Baldock) Cllr Mrs J A Anderson, Cllr Ms J A Atkinson, Cllr M A C Balfour, Cllr Mrs S M Barker, Cllr M C Base, Cllr Mrs P A Bates, Cllr Mrs S Bell, Cllr R P Betts, Cllr T Bishop, Cllr P F Bolt, Cllr J L Botten, Cllr V M C Branson, Cllr Mrs B A Brown, Cllr T I B Cannon, Cllr M A Coffin, Cllr D J Cure, Cllr R W Dalton, Cllr D A S Davis, Cllr M O Davis, Cllr Mrs T Dean, Cllr T Edmondston-Low, Cllr B T M Elks, Cllr Mrs S M Hall, Cllr S M Hammond, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr S R J Jessel, Cllr D Keeley, Cllr Mrs F A Kemp, Cllr S M King, Cllr R D Lancaster, Cllr D Lettington, Cllr B J Luker, Cllr D Markham, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr L J O'Toole, Cllr M Parry-Waller, Cllr S C Perry, Cllr M R Rhodes, Cllr H S Rogers, Cllr Miss J L Sergison, Cllr T B Shaw, Cllr Miss S O Shrubsole, Cllr C P Smith, Cllr Ms S V Spence, Cllr A K Sullivan, Cllr M Taylor, Cllr F G Tombolis, Cllr B W Walker and Cllr T C Walker

Apologies for absence were received from Councillor R V Roud

PART 1 - PUBLIC

C 15/31 ELECTION OF MAYOR

It was proposed by Councillor V Branson, seconded by Councillor M Rhodes and

RESOLVED: That Councillor O C Baldock be elected Mayor for the ensuing municipal year.

The Mayor, having made and subscribed the statutory declaration of acceptance of office, was invested with the Badge and Chain of Office, assumed the Chair and thanked Members for his election.

C 15/32 VOTE OF THANKS TO RETIRING MAYOR

It was proposed by Councillor B Luker, seconded by Councillor N Heslop and

RESOLVED: That the Council's sincere appreciation be recorded of the excellent manner in which the retiring Mayor, Councillor Mrs S L Luck

had performed her duties both in the Council Chamber and throughout the Borough during the preceding year.

C 15/33 ELECTION OF DEPUTY MAYOR

It was proposed by Councillor C Smith, seconded by Councillor N Heslop and

RESOLVED: That Councillor M R Rhodes be appointed Deputy Mayor for the ensuing municipal year.

The Deputy Mayor made and subscribed the statutory declaration of acceptance of office and thanked Members for his appointment.

C 15/34 MINUTES

RESOLVED: That the Minutes of the proceedings of the meeting of the Council held on 14 April 2015 be approved as a correct record and signed by the Mayor.

C 15/35 MAYOR'S ANNOUNCEMENTS

The Mayor announced that his nominated charities were The Bridge Trust, Tonbridge and Slide Away based in Wrotham, a charity offering bereavement support to children who had lost a sibling or near relative. He had appointed the Reverend Paul White as his Chaplain and the Civic Service would be held at St Mary's Church, Hadlow on Sunday 5 July.

The Mayor indicated that his Garden Party would be held at Hadlow College on 22 July. He offered congratulations to the College's floristry department on being awarded a Gold medal at the Chelsea Flower Show and to Dyson's Nurseries at Great Comp for winning a Silver-Gilt medal.

C 15/36 RETURNING OFFICER'S CERTIFICATE

The Chief Executive, as Returning Officer, submitted her report listing persons who had been elected as Councillors at the Borough Council Elections held on 7 May 2015.

The Council's thanks were recorded to the Returning Officer and all staff involved for their efficiency during the polling and count for all elections and for the transmission of results.

C 15/37 ELECTION OF LEADER

It was proposed by Councillor M Coffin, seconded by Councillor A Sullivan and

RESOLVED: That Councillor N Heslop be elected as Leader of the Council for the ensuing four years.

C 15/38 APPOINTMENT OF CABINET

The Leader presented details of the composition of the Cabinet.

RESOLVED: That it be noted that the Cabinet will comprise five Members (in addition to the Leader) with the responsibilities indicated:

Councillor Mrs J Anderson - Housing and Environment Services
Councillor M Coffin - Finance, Innovation and Property and Deputy Executive Leader
Councillor Mrs M Heslop – Community Services
Councillor B Luker – Community Safety
Councillor H Rogers - Planning and Transportation
The Economic Regeneration portfolio to be held by the Leader

C 15/39 CHANGES TO THE CONSTITUTION

The report of the Director of Central Services and Monitoring Officer sought approval of changes to the Constitution to reflect the responsibilities of the new Cabinet Members together with consequent changes to the terms of reference of Advisory Boards. In addition a minor amendment to the Executive Procedure Rules was proposed to address an anomaly arising from the Leader holding a Cabinet portfolio.

RESOLVED: That the Monitoring Officer be authorised to make the appropriate consequential changes to the Council's Constitution to give effect to

- (1) the proposed portfolios for Cabinet Members as set out at Annex 1 to the report;
- (2) the proposed terms of reference for Advisory Boards as set out at Annex 2 to the report; and
- (3) the proposed changes to the Executive Procedure Rules set out at paragraph 1.1.6 of the report.

C 15/40 POLITICAL BALANCE ARRANGEMENTS

The report of the Director of Central Services and Monitoring Officer set out details of the political balance arrangements required to be applied to the Council's committees, sub-committees, advisory boards and panels following the elections held on 7 May 2015.

RESOLVED: That the composition of all committees, sub-committees, advisory boards and panels be approved in accordance with the table set out at paragraph 1.1.4 of the report and the Monitoring Officer make

any consequential amendments to the Council's Constitution in respect of political balance.

C 15/41 APPOINTMENT OF COMMITTEES

RESOLVED: That appointments to the Committees of the Council for the ensuing municipal year be made as follows:-

Overview and Scrutiny Committee

Councillor Ms J Atkinson	Councillor P Montague
Councillor M Base	Councillor Mrs A Oakley
Councillor P Bolt	Councillor M Rhodes
Councillor J Botten	Councillor Miss J Sergison
Councillor R Dalton	Councillor Miss S Shrubsole
Councillor S Hammond	Councillor Ms S Spence
Councillor S Jessel	Councillor A Sullivan
Councillor Mrs F Kemp	Councillor M Taylor
Councillor D Lettington	Councillor T Walker

Licensing and Appeals Committee

Councillor Mrs J Anderson	Councillor Mrs F Kemp
Councillor O Baldock	Councillor S King
Councillor M Base	Councillor H Rogers
Councillor Mrs P Bates	Councillor R Roud
Councillor Mrs B Brown	Councillor A Sullivan
Councillor M Coffin	Councillor M Taylor
Councillor R Dalton	Councillor F Tombolis
Councillor B Elks	

General Purposes Committee

Councillor M Balfour	Councillor S Perry
Councillor Mrs S Bell	Councillor H Rogers
Councillor P Bolt	Councillor R Roud
Councillor M Coffin	Councillor C Smith
Councillor Mrs S Hall	Councillor Ms S Spence
Councillor N Heslop	Councillor M Taylor
Councillor D Markham	Councillor T Walker

Audit Committee

Councillor M Base	Councillor S Jessel
Councillor T Bishop	Councillor S King
Councillor V Branson	Councillor Mrs S Luck
Councillor T Edmondston-Low	Councillor M Parry-Waller
Councillor B Elks	

Joint Standards Committee

Councillor Ms J Atkinson
Councillor Mrs P Bates
Councillor Mrs S Bell
Councillor R Betts
Councillor Mrs B Brown
Councillor D Cure
Councillor D Davis
Councillor Mrs T Dean
Councillor T Edmondston-Low
Councillor D Lettington
Councillor P Montague
Councillor Miss J Sergison
Councillor C Smith

(Parish members to be appointed from a pool of nominated representatives)

A Hearing Panel will be appointed from members of the Joint Standards Committee as necessary.

Area 1 Planning Committee

Councillor Mrs J Anderson
Councillor Ms J Atkinson
Councillor O Baldock
Councillor Mrs P Bates
Councillor P Bolt
Councillor J Botten
Councillor V Branson
Councillor D Cure
Councillor M Davis
Councillor T Edmondston-Low

Councillor B Elks
Councillor Mrs M Heslop
Councillor N Heslop
Councillor R Lancaster
Councillor M Rhodes
Councillor H Rogers
Councillor Miss J Sergison
Councillor C Smith
Councillor Ms S Spence
Councillor F Tombolis

(For the Wards of Cage Green; Castle; that part of the Hadlow and East Peckham Ward within the parish of Hadlow; Higham; Hildenborough; Judd; Medway; Trench; and Vauxhall)

Area 2 Planning Committee

Councillor Mrs J Anderson
Councillor M Balfour
Councillor Mrs S Barker
Councillor R Betts
Councillor M Coffin
Councillor S Jessel
Councillor Mrs F Kemp
Councillor Mrs S Luck
Councillor B Luker

Councillor P Montague
Councillor L O'Toole
Councillor S Perry
Councillor H Rogers
Councillor Miss J Sergison
Councillor T Shaw
Councillor Miss S Shrubsole
Councillor M Taylor

(For the Wards of Borough Green and Long Mill; Downs and Mereworth; that part of the Hadlow and East Peckham Ward outside the parish of Hadlow; Kings Hill; Wateringbury; West Malling and Leybourne; and Wrotham, Ightham and Stansted)

Area 3 Planning Committee

Councillor M Base	Councillor D Keeley
Councillor Mrs S Bell	Councillor S King
Councillor T Bishop	Councillor D Lettington
Councillor Mrs B Brown	Councillor D Markham
Councillor T Cannon	Councillor Mrs A Oakley
Councillor R Dalton	Councillor M Parry-Waller
Councillor D Davis	Councillor R Roud
Councillor Mrs T Dean	Councillor A Sullivan
Councillor Mrs S Hall	Councillor B Walker
Councillor S Hammond	Councillor T Walker

(For the Wards of Aylesford North and Walderslade; Aylesford South; Burham and Wouldham; Ditton; East Malling; Larkfield North; Larkfield South; Snodland East and Ham Hill; and Snodland West and Holborough Lakes)

C 15/42 APPOINTMENT OF CHAIRMEN AND VICE-CHAIRMEN

RESOLVED: That appointment of the Chairman and Vice-Chairman of each Committee, Board, Panel and Group for the ensuing municipal year be made as follows:-

<u>COMMITTEE</u>	<u>CHAIRMAN</u>	<u>VICE-CHAIRMAN</u>
Overview and Scrutiny Committee	Councillor A Sullivan	Councillor Mrs A Oakley Councillor Miss S Shrubsole
Licensing and Appeals Committee	Councillor R Dalton	Councillor Mrs P Bates
General Purposes Committee	Councillor Ms S Spence	Councillor P Bolt
Audit Committee	Councillor V Branson	Councillor T Edmondston-Low
Joint Standards Committee	Councillor Miss J Sergison	Councillor D Cure Councillor D Davis
Area 1 Planning Committee	Councillor R Lancaster	Councillor V Branson

Area 2 Planning Committee	Councillor Mrs F Kemp	Councillor S Jessel
Area 3 Planning Committee	Councillor M Parry Waller	Councillor D Lettington
Parish Partnership Panel	Councillor N Heslop	Councillor M Coffin
Tonbridge Forum	Councillor N Heslop	Councillor C Smith
Communities Advisory Board	Councillor M Rhodes	Councillor D Keeley
Economic Regeneration Advisory Board	Councillor S King	Councillor S Jessel
Finance, Innovation and Property Advisory Board	Councillor Mrs F Kemp	Councillor Mrs B Brown
Housing and Environment Services Advisory Board	Councillor M Davis	Councillor Ms J Atkinson
Planning and Transportation Advisory Board	Councillor D Davis	Councillor Miss Shrubsole
Electoral Review Working Group	Councillor N Heslop	Councillor M Balfour
Housing Associations Liaison Panel	Councillor Mrs J Anderson	
Joint Employee Consultative Committee	Councillor M Coffin	Councillor M Balfour
Joint Transportation Board	Councillor H Rogers	Vice-Chairmanship with KCC

C 15/43 APPOINTMENT OF ADVISORY PANELS AND BOARDS AND OTHER MEMBER GROUPS

RESOLVED: That appointments to the Advisory Panels, Boards and other Member Groups of the Council for the ensuing municipal year be made as follows:-

PANEL/BOARDMEMBERS

Parish Partnership Panel

Councillor Mrs J Anderson
Councillor Mrs S Barker
Councillor R Betts
Councillor T Cannon
Councillor M Coffin *
Councillor R Dalton
Councillor Mrs S Hall
Councillor S Hammond
Councillor N Heslop **
Councillor D Lettington
Councillor D Markham
Councillor R Roud
Councillor T Shaw

Tonbridge Forum

Councillor Mrs J Anderson
Councillor Ms J Atkinson
Councillor Mrs P Bates
Councillor P Bolt
Councillor J Botten
Councillor V Branson
Councillor D Cure
Councillor T Edmondston-Low
Councillor N Heslop **
Councillor R Lancaster
Councillor C Smith*
Councillor Ms S Spence
Councillor F Tombolis

Communities Advisory
Board

Councillor O Baldock
Councillor Mrs S Barker
Councillor Mrs P Bates
Councillor Mrs S Bell
Councillor V Branson
Councillor T Cannon
Councillor Mrs T Dean
Councillor S Hammond
Councillor D Keeley*
Councillor Mrs S Luck
Councillor P Montague
Councillor L O'Toole
Councillor S Perry
Councillor M Rhodes**
Councillor T Shaw
Councillor B Walker

PANEL/BOARD

Economic Regeneration
Advisory Board

Finance, Innovation and
Property Advisory Board

MEMBERS

Councillor Mrs S Barker
Councillor M Base
Councillor R Betts
Councillor T Bishop
Councillor J Botten
Councillor T Cannon
Councillor M Davis
Councillor S Jessel*
Councillor S King**
Councillor R Lancaster
Councillor Mrs S Luck
Councillor Miss J Sergison
Councillor C Smith
Councillor F Tombolis
Councillor B Walker
Councillor T Walker

Councillor O Baldock
Councillor Mrs S Bell
Councillor R Betts
Councillor T Bishop
Councillor J Botten
Councillor Mrs B Brown*
Councillor T Cannon
Councillor D Cure
Councillor M Davis
Councillor Mrs F Kemp**
Councillor R Lancaster
Councillor D Lettington
Councillor L O'Toole
Councillor Miss J Sergison
Councillor A Sullivan
Councillor B Walker

PANEL/BOARD

Housing and Environment
Services Advisory Board

MEMBERS

Councillor Ms J Atkinson*
Councillor M Balfour
Councillor V Branson
Councillor D Cure
Councillor R Dalton
Councillor M Davis **
Councillor Mrs S Hall
Councillor S Hammond
Councillor D Keeley
Councillor D Markham
Councillor Mrs A Oakley
Councillor L O'Toole
Councillor S Perry
Councillor M Rhodes
Councillor T Shaw
Councillor Ms S Spence

Planning and
Transportation Advisory
Board

Councillor M Balfour
Councillor Mrs Barker
Councillor P Bolt
Councillor V Branson
Councillor D Davis**
Councillor T Edmondston-Low
Councillor B Elks
Councillor Mrs F Kemp
Councillor R Lancaster
Councillor L O'Toole
Councillor M Parry-Waller
Councillor S Perry
Councillor R Roud
Councillor Miss S Shrubsole*
Councillor A Sullivan
Councillor M Taylor

Electoral Review Working
Group

Councillor O Baldock
Councillor M Balfour*
Councillor M Coffin
Councillor Mrs T Dean
Councillor N Heslop **
Councillor D Lettington
Councillor D Markham
Councillor P Montague
Councillor A Sullivan

PANEL/BOARDMEMBERS

Housing Associations
Liaison Panel

Councillor Mrs J Anderson **
Councillor Ms J Atkinson
Councillor M Davis
Councillor D Keeley
Councillor Mrs A Oakley

Joint Employee
Consultative Committee

Councillor M Balfour *
Councillor T Bishop
Councillor P Bolt
Councillor Mrs B Brown
Councillor M Coffin **
Councillor Mrs S Hall
Councillor B Luker
Councillor Miss S Shrubsole
Councillor T Walker

Joint Transportation Board

Councillor D Davis
Councillor N Heslop
Councillor Mrs F Kemp
Councillor R Lancaster
Councillor M Parry-Waller
Councillor H Rogers**
Councillor M Taylor

Chairmanship with TMBC,
Vice-Chairmanship with
KCC in 2015/16

** Denotes Chairman

* Denotes Vice-Chairman

C 15/44 APPOINTMENT TO OUTSIDE BODIES

RESOLVED: That appointments to serve on outside bodies for the ensuing municipal year be made as follows:-

Kent County Playing Fields
Association

Councillor Mrs M Heslop

Age UK Sevenoaks and Tonbridge

Councillor Ms J Atkinson
Councillor D Cure
Councillor Ms S Spence

Age Concern (Malling)

Councillor Brian Luker

Citizens Advice in North and West
Kent

Mrs S Murray

Maidstone and District Care Committee for Chest, Heart and Stroke	Councillor S Hammond
West Kent Relate	Councillor Ms S Spence
Action with Communities in Rural Kent	Councillor R Dalton Councillor Miss J Sergison
Maidstone Mediation Scheme	Councillor Mrs B Brown
Tourism South East	Councillor Mrs M Heslop
Education Area Briefings	Councillor Mrs M Heslop
Kent Downs AONB Joint Advisory Committee	Councillor H Rogers
Basted Mill Public Open Space Joint Committee	Councillor M Coffin Councillor S Perry
Snodland Partnership	Councillor Mrs S Bell Councillor D Keeley Councillor D Lettington
South East England Councils (Leaders' Forum)	Councillor N Heslop (Substitute: Councillor M Coffin)
Youth and Community Centres/Project Management Committees	Councillor Mrs M Heslop
LGA General Assembly	Councillor N Heslop (Substitute: Councillor M Coffin)
West Kent Partnership	Councillor B Luker
Parking and Traffic Regulations Outside London Adjudication Joint Committee	Councillor D Davis (Deputy: Councillor Miss S Shrubsole)
Rochester Airport Consultative Committee	Councillor A Sullivan
Maidstone and Tunbridge Wells NHS Trust Community Involvement Group	Councillor M Rhodes
KCC Health Overview and Scrutiny Committee	Councillor Mrs M Heslop

Malling Holmesdale Federation Trust	Miss A Moloney
Kent and Medway Police and Crime Panel	Councillor B Luker
Kent Flood Risk Management Board	Councillor H Rogers
Tonbridge and Malling Leisure Trust	Councillor R Betts Councillor M Davis

C 15/45 SCHEME OF DELEGATIONS

Members were invited to confirm the Scheme of Delegations in compliance with the Constitution.

RESOLVED: That

- (1) those parts of the Scheme of Delegations set out in Part 3 of the Constitution which are for the Council to approve be confirmed;
- (2) the Leader's recommendations for decision making by individual executive Members set out in Part 3 of the Constitution be adopted; and
- (3) the current scheme of delegation to officers in respect of executive functions set out in Part 3 of the Constitution be re-adopted.

C 15/46 PROGRAMME OF MEETINGS 2015/16

The programme of Council, Cabinet, Committee and Advisory Board and Panel meetings for the ensuing year and to December 2016 was presented for approval.

RESOLVED: That the programme of meetings be approved.

C 15/47 SEALING OF DOCUMENTS

RESOLVED: That authority be given for the Common Seal of the Council to be affixed to any instrument to give effect to a decision of the Council incorporated into these Minutes and proceedings.

The meeting ended at 8.20 pm

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Mayor's Announcements

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Agenda Item 5

Questions from the public pursuant to Council Procedure Rule No 5.6

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Agenda Item 6

Questions from Members pursuant to Council Procedure Rule No 5.5

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Leader's Announcements

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Agenda Item 8

<u>Meeting</u>	<u>Date</u>	<u>Page Nos. in Minute Book</u>	<u>Recommendations to Council</u>
Licensing and Appeals Panel	17 April	175 – 177	-
Licensing and Appeals Panels (x2)	27 April	178 – 181	-
Licensing and Appeals Panel	30 April	182 – 184	-
Licensing and Appeals Panels (x3)	2 June	198 – 202	-
Audit Committee	22 June	203 – 207	-
Cabinet	24 June	208 – 210	CB 15/40, 41, 42
General Purposes Committee	29 June	237 – 242	GP 15/12
Licensing and Appeals Committee	30 June	243 – 244	-
Joint Standards Committee	1 July	245 – 246	-
Overview and Scrutiny Committee	7 July	To follow	-
Area 1 Planning Committee	9 April	AP 30 – 32	-
Area 2 Planning Committee	15 April	AP 33 – 35	-
Area 3 Planning Committee	23 April	AP 36 – 39	-
Area 2 Planning Committee	27 May	AP 40 – 41	-
Area 3 Planning Committee	4 June	AP 42 – 44	-

These minutes include the following proposals from the Cabinet in relation to the Council's budget and policy framework:-
 Risk Management Strategy (Minute CB 15/40)
 Local Code of Corporate Governance (Minute CB 15/41)

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

24 June 2015

Report of the Chief Executive and Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 **RISK MANAGEMENT STRATEGY**

This report asks Members to review the current Risk Management Strategy and to endorse it for adoption by the Council.

1.1 **Introduction**

1.1.1 The Council has had a Risk Management Strategy in place for a number of years. The Council's Risk Management arrangements are designed to ensure a prudent approach is taken, with risks reduced to an acceptable level, thereby safeguarding the Council's assets, employees and customers.

1.1.2 The Risk Management Strategy sets out the Council's risk management objectives and details the roles and responsibilities of officers, Members and the Council's partners in ensuring risks are effectively identified, evaluated and controlled in a cost effective manner.

1.2 **Review of the Risk Management Strategy**

1.2.1 As part of arrangements in place to ensure risk management maintains a high profile within the Council, the Strategy is subject to annual review and endorsement through the Audit Committee, Cabinet and Council.

1.2.2 The Risk Management Strategy has been reviewed by the Audit Committee and subject to the Committee's consideration of the Strategy no amendment is considered to be required other than some minor textual amendments. A copy of the Strategy is attached at **[Annex 1]**.

1.3 **Legal Implications**

1.3.1 There is a Health and Safety requirement for effective risk management to be in place and the strategy supports this requirement. There is also a requirement in the Accounts and Audit Regulations that accounting control systems must include measures to ensure that risk is appropriately managed.

1.4 **Financial and Value for Money Considerations**

1.4.1 Effective risk management arrangements make a positive contribution to ensuring value for money is provided in the delivery of services.

1.5 Risk Assessment

1.5.1 Sound risk management arrangements aid the Council in effective strategic decision-making. The Council's approach to risk should be reviewed on a regular basis to ensure it is up to date and operating effectively.

1.6 Equality Impact Assessment

1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

1.7.1 Members are requested to review the Risk Management Strategy and subject to any amendment required recommend to Council it be adopted.

Background papers:

contact: David Buckley

Nil

Julie Beilby
Chief Executive

Sharon Shelton
Director of Finance and Transformation

TONBRIDGE AND MALLING BOROUGH COUNCIL

RISK MANAGEMENT STRATEGY

1. Introduction

The risk management strategy of Tonbridge and Malling Borough Council is to adopt best practices in the identification, evaluation, and cost-effective control of risks. This is intended to ensure that risks are reduced to an acceptable level or, where reasonable eliminated, thereby safeguarding the Council's assets, employees and customers and the delivery of services to the local community.

One of the Council's aims is to:

“Maintain the Council's high standards of financial management and probity”.

The Council endeavours to pursue a forward-looking and dynamic approach to delivering services to the local community and will not be averse to taking a degree of commercial risk. However, it will always exercise a prudent approach to risk taking and decisions will be made within the parameters of the Council's internal control arrangements, i.e. Constitution, Procedural Rules, etc. These arrangements will serve to ensure that the Council does not expose itself to risks above an acceptable level.

Risks relating specifically to Health & Safety matters will be covered within the Council's Health & Safety Policy and supporting guidance notes issued by the Director of Planning, Housing and Environmental Health.

2. Objectives

The risk management objectives of the Council are to:

- embed risk management into the culture of the Council;
- monitor, manage and report on risk in accordance with best practice;
- be responsive to changing social, environmental and legislative requirements whilst effectively managing the related risks and opportunities;
- prevent injury, damage and loss and reduce the cost of risk;
- raise awareness of the need for risk management;
- actively promote 'sensible and responsible risk management' using practical steps to protect workers and the public from real risks that cause injury and death.

These objectives will be achieved by:

- defining the roles and responsibilities, in relation to risk management, of Officers and Members within the organisation;
- maintaining a risk management framework that will ensure the review on a rolling basis of strategic, operational and project risks faced by the Council – this approach will:

- identify corporate, operational and project risks;
 - assess the identified risks for likelihood and impact;
 - record the corporate risk register, linking these risks to strategic business objectives and assigning ownership for each risk;
 - detail the management action/controls required to mitigate identified risks;
 - require the corporate risk register to be discussed with the Audit Committee prior to approval by Council;
 - require confirmation to the Audit Committee of the reviews undertaken and to draw out any issues where deemed appropriate as a result;
 - require the reporting of risks to full Council where appropriate;
 - require all Cabinet/Committee/Board reports to include a section covering the key risk issues to be considered, together with any action required to mitigate identified risks;
 - require a risk assessment to be completed for all significant new projects and initiatives;
 - require the Treasury Management Strategy to outline the arrangements for properly managing treasury management risks;
 - require risks in relation to significant partnerships to be identified and assurances to be obtained regarding the management of those risks;
 - require appropriate incident recording to facilitate the analysis of risk data and steps taken to prevent or mitigate similar incidents occurring;
 - require an annual review of the risk management framework by the review of this strategy.
- providing relevant training on risk management to employees and Members of the authority;
 - actively participating in inter-authority internal audit and insurance groups thereby developing and sharing best practice in risk management;
 - encouraging officers participating in other professional discipline groups to secure the inclusion of risk management as an agenda topic;
 - disseminating to officers as appropriate published risk management information received from insurers and other related sources.

3. Roles and Responsibilities

a) Members

The Risk Management Strategy will be reviewed at least annually. Council approval of the updated strategy will be witnessed by the signature of the Leader of the Council and countersigned by the Chief Executive. The Chairman of the Audit Committee will take a lead role in promoting the application of sound risk management practices across the Council.

All Members of the Council will receive a Risk Management Training session during a four-year term in office.

The Audit Committee will consider the Risk Management process as part of the assurance evidence in support of any Corporate Governance Statement.

The Audit Committee will provide independent assurance of the adequacy of the risk management framework and will monitor the effective development and operation of risk management in the Council.

b) Management Team

Management are responsible for the identification and management of risks.

Management Team will consider strategic risk and if necessary will formulate an action plan to address the risk. Strategic risk reviews will be undertaken where new situations arise or as considered necessary by the Management Team.

The business continuity plan will include strategic risks that will cascade down to operational risk registers.

Chief Officers will ensure that their managers carry out an annual review of operational risk for all their areas of responsibility. This review process will include the views of relevant staff within the activity. This will be supported by a half yearly review carried out by the manager with any risks entering the red zone being reported to the Chief Officer. The Chief Officer shall alert Management Team of any significant emerging risks as he deems necessary.

Chief Officers will take steps to ensure that their staff are fully aware of the Council's Risk Management Strategy and how to raise concerns relating to risk.

c) Section Managers

Section Managers in conjunction with members of their teams (as appropriate) and other parties / partners (where applicable) will lead reviews of the operational risks relating to their sections, and will reflect the outcomes of these reviews in their own Operational Risk Registers. These operational risk reviews will be undertaken annually. In addition a half-yearly review will take place to identify any significant change in scored risk and any new risks that have arisen.

Where risks are identified as being in the red zone of the risk matrix they will be reported to Management Team.

Where a manager identifies that a risk is moving significantly towards the red zone he should monitor the situation and alert his Chief Officer to the fact.

d) Partners

Where the Council enters into a partnership arrangement, the officer responsible for monitoring the partnership must ensure that the partner has an adequate risk management strategy and sufficient insurance cover to protect the interests of the Council.

e) Employees Generally

The concept of risk management will be conveyed to all employees. “Netconsent” will be used to raise staff awareness of the Strategy annually.

A copy of this document will be held on the Council’s Intranet site. Employees will be expected in the first instance, to refer risk management concerns to their line managers. Should such concerns remain un-addressed, employees can refer their concerns elsewhere as prescribed in the Council’s Whistleblowing Policy.

Staff identified as being appropriate by their Manager will be asked to review the content and scoring of the Operational Risk registers for their section. This review should assist the Manager in completing the Risk Register.

All staff also have a duty to consider safe working practices and owe a duty of care to the safety of others. Any concerns relating to Health & Safety matters should be raised with line management, who, as part of their response, should seek guidance as necessary from the Director of Planning, Housing and Environmental Health.

f) Director of Planning, Housing and Environmental Health

The Director of Planning, Housing and Environmental Health shall be responsible for:

- monitoring and reviewing arrangements for the proper management of work place health & safety;
- preparing and updating the Council’s Health & Safety Policy;
- overseeing the issue of Health & Safety Guidance to assist service managers and staff comply with the Council’s Health & Safety Policy; and
- assessing compliance with Health & Safety legislation.

In the execution of these responsibilities the Director of Planning, Housing and Environmental Health will:

- consult with service managers in preparing an annual health and safety work programme which will include undertaking audits of work place activities and related risk assessments;
- assist service managers identify emerging health and safety risks and measures to address them including appropriate training;
- assist services managers prepare and review health and safety risk assessments;
- submit an annual report on health and safety management in the work place.

g) Financial Services

The Director of Finance & Transformation in consultation with the Exchequer Services Manager will:

- regularly review and advise upon the Council's insurance requirements and arrangements;
- advise Officers and Members on insurance covers available and / or in place;
- regularly advise Members of the Audit Committee on claims history and preventative action arising;
- arrange insurance cover as necessary;
- advise Officers on claims procedures, and process claims arising;
- assist in the development and provision of claims data to aid future risk control;
- disseminate published risk management information received.

The Director of Finance & Transformation will report to Management Team on any areas of significant financial risk identified by the budget monitoring process

The Internal Audit Section will take account of Risk Management provision when formulating the annual audit plan. Although the provision of adequate and effective risk management is Management responsibility each Internal Audit review will include a provision to ascertain if an up to date and adequate risk register is in place.

Signed:

Leader of the Council

Signed:

Chief Executive

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

24 June 2015

Report of the Chief Executive and Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 LOCAL CODE OF CORPORATE GOVERNANCE

The Audit Committee is due to review the Local Code of Corporate Governance at its meeting on 22 June for subsequent recommendation to Cabinet and adoption by Council.

1.1 Introduction

1.1.1 Tonbridge and Malling Borough Council is committed to adopting the principles of good governance and demonstrates this publicly through the adoption and continued maintenance of a local Code of Corporate Governance, as recommended within the CIPFA/SOLACE (Chartered Institute of Public Finance & Accounting and the Society of Local Authority Chief Executives) Framework for Good Governance in Local Government, 2007.

1.1.2 In 2012, CIPFA/SOLACE published an addendum to the 2007 framework along with a Guidance Note for English Local Authorities. In order to meet the latest guidance, the Council's Code of Corporate Governance was reviewed and updated in June 2014.

1.1.3 The CIPFA/SOLACE Framework for Good Governance in Local Government defines governance as 'the systems and processes, cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities'.

1.1.4 Each year, the Annual Governance Review process, culminating in the Annual Governance Statement, is used to confirm that the Council's arrangements to comply with the Local Code of Corporate Governance are in place and effective.

1.2 Review of the Local Code of Corporate Governance

1.2.1 The Local Code of Corporate Governance adopted in 2013 has been reviewed and no amendment is considered to be required other than some minor textual amendments. A copy of the Code is attached at **[Annex 1]**.

1.3 Legal Implications

- 1.3.1 Whilst there is no legal requirement for Council's to develop a Local Code of Corporate Governance, such a Code provides a public document that demonstrates how the Council ensures it operates in a proper way and in accordance with the law.

1.4 Financial and Value for Money Considerations

- 1.4.1 There are no financial and value for money considerations arising from the Code.

1.5 Risk Assessment

- 1.5.1 The Code of Corporate Governance meets the principles of the CIPFA/SOLACE Framework for Good Governance in Local Government and has been prepared with due consideration to good governance practice, as set out in the Framework.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Policy Considerations

- 1.7.1 [Select those that apply from Add-Ins >> All Entries >> Policy Considerations, or remove section]

1.8 Recommendations

- 1.8.1 Subject to any comments from the Audit Committee, Cabinet is requested to review the Local Code of Corporate Governance and recommend to Council it be adopted.

Background papers:

contact: David Buckley

CIPFA/SOLACE – “Delivering Good Governance in Local Government”.

Julie Beilby
Chief Executive

Sharon Shelton
Director of Finance and Transformation

**Tonbridge & Malling Borough Council
CODE OF CORPORATE GOVERNANCE**

INTRODUCTION

- 1.1 In 2001 the Chartered Institute of Public Finance & Accountancy (CIPFA) and the Society of Local Authority Chief Executives (SOLACE) published *Corporate Governance in Local Government – A Keystone for Community Governance: Framework*. The Framework outlined the need for local authorities to review their governance arrangements against a number of key principles and report on their effectiveness in practice.
- 1.2 Six core principles of good governance were advocated by the Independent Commission on Good Governance in Public Services in *The Good Governance Standard for Public Services (2004)* with support from the Office for Public Management and CIPFA. In response to subsequent changes in local government, CIPFA and SOLACE published an updated framework for good governance in local government in 2007. The framework defines governance as, ‘the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities’.
- 1.3 The Independent Commission’s six core principles of good governance outlined in the CIPFA-SOLACE Framework show that good governance means:
- (i) Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area
 - (ii) Members and officers working together to achieve a common purpose with clearly defined functions and roles
 - (iii) Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
 - (iv) Taking informed, transparent decisions which are subject to effective scrutiny and managing risk
 - (v) Developing the capacity and capability of Members and officers to be effective
 - (vi) Engaging with local people and other stakeholders to ensure robust public accountability

CODE OF CORPORATE GOVERNANCE	SUPPORTING EVIDENCE
1. Good governance means focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area.	
<p>1.1. <i>Exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and service users.</i></p>	<p>There is a clear statement of the organisation's purpose in:</p> <ul style="list-style-type: none"> • Tonbridge & Malling Borough Council – Corporate Performance Plan 2012/15 <p>This document sets out the key priorities for the authority and how the Council will work with a range of partners and the local communities towards achieving the objectives.</p> <p>Over the coming months the Council will need to develop a new Corporate Performance Plan taking into account the actions identified following the 2014 Peer Review and recent issues and challenges.</p>
<p>1.2. <i>Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning.</i></p>	<p>The Corporate Performance Plan also sets out how the Key Priorities will be delivered and identifies improvement plans on how these can be delivered efficiently and effectively. This will involve working with partners and contractors to achieve this. Regular update reports are given to Management and Members outlining progress towards achieving these priorities.</p>
<p>1.3. <i>Ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money.</i></p>	<p>The Council works towards improving value for money through:</p> <ul style="list-style-type: none"> • Exploration of innovative ways of working including potential for joint-working and shared services • Robust budgeting and Financial monitoring arrangements including detailed reviews of budgets and potential savings opportunities • The work of Internal Audit • The work of External Audit • Publication of annual budget and accounts information
2. Good governance means Members and officers working together to achieve a common purpose with clearly defined functions and roles	
<p>2.1. <i>Ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard.</i></p>	<p>The Council has a protocol for relations between Members and Officers. The Council's Constitution sets out clearly any delegation of responsibility from Council and the decision making powers of:</p> <ul style="list-style-type: none"> • The Council • The Cabinet (including the Executive Leader and delegated decision-making to the Cabinet Portfolio Holders) • The Licensing Committee and other Council Committees.
<p>2.2. <i>Ensuring effective leadership throughout the authority and being</i></p>	<p>The Council's Constitution clearly sets out the process for holding the executive to account through the debate</p>

<p><i>clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function.</i></p>	<p>of items at committees and, specifically, the role of the Overview and Scrutiny Committee.</p>
<p>2.3. <i>Ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of the other.</i></p>	<p>The Council is accountable to the citizens of Tonbridge & Malling in delivering its duties and responsibilities. The Council manages relationships with partners and consults with the public through a number of mechanisms:</p> <ul style="list-style-type: none"> • Transparency agenda • Regular reporting to Members • Partnership arrangements supported by protocol agreements • Council Constitution
<p>3. Good governance means promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.</p>	
<p>3.1. <i>Ensuring authority Members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.</i></p>	<p>The Council has a Code of Conduct for Members. In addition the Council has:</p> <ul style="list-style-type: none"> • An Equalities Policy • A Code of Conduct for staff • A Declaration of Interest Register for Members and for staff • A Register of Gifts and Hospitality offered to Members and staff • Financial Procedure Rules • Contracts Procedure Rules • A publicised complaints procedure • A fraud-aware culture
<p>3.2. <i>Ensuring that organisational values are put into practice and are effective.</i></p>	<p>The Council has robust arrangements in place to ensure that it does the right things, for the right people in a timely, inclusive, open, honest and accountable manner. These are monitored and publicised through:</p> <ul style="list-style-type: none"> • The Council's performance reporting arrangements • Procedures for recruitment and training • Decision making practices • Data transparency arrangements, such as publication of decisions and committee meeting minutes • Partnership governance arrangements
<p>4. Good governance means taking informed and transparent decisions which are subject to effective scrutiny and managing risk</p>	
<p>4.1. <i>Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny.</i></p>	<p>The Council's Constitution sets out clearly the decision-making powers of:</p> <ul style="list-style-type: none"> • The Council • The Cabinet (including the Executive Leader and delegated decision-making to the Cabinet Portfolio Holders), • Other Council committees. <p>Feedback from the Overview and Scrutiny Committee and the Council's Cabinet and Committees is taken into</p>

	account in decision-making.
<i>4.2. Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.</i>	The Council's Financial Procedure Rules support the provision of high quality financial advice. The Council also acts in consultation with stakeholders. The Council's Internal Audit Service provide assurance on the quality of financial and performance data reported.
<i>4.3. Ensuring that an effective risk management system is in place.</i>	The Council has arrangements in place to effectively monitor and manage risks to its business through the: <ul style="list-style-type: none"> • Risk Management Strategy • Corporate Risk Register • Service Risk Registers • Audit Committee role in scrutinising corporate risk • Consideration of risk in all Committee reports • Annual Governance Statement
<i>4.4. Using their legal powers to the full benefit of the citizens and communities in their area.</i>	The Council actively recognises the requirements and responsibilities placed on it by law and will act to observe all specific legal requirements placed upon it when taking decisions. The Council also strives to utilise its statutory powers to work in the public interest and to the full benefit of its citizens, particularly in relation to regulatory activity. All committee reports include a section to ensure any legal implications are fully analysed when making decisions.
5. Good governance means developing the capacity and capability of Members and officers to be effective	
<i>5.1. Making sure that Members and officers have the skills, knowledge, experience and resources they need to perform well in their roles.</i>	The Council has a training programme for Members and holds regular training sessions for Members on a variety of topics: <ul style="list-style-type: none"> • Induction training for all new members • Service-specific training, e.g. Community Safety • Committee-specific training, e.g. Audit Committee The Council has an extensive training programme for council officers including mandatory and voluntary training.
<i>5.2. Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.</i>	The Council examines the capability of its people with governance responsibilities through appraisals, identifying any training gaps – the relevant training programmes are updated accordingly.
<i>5.3. Encouraging new talent for membership of the authority so that best use can be made in individuals' skills and resources in balancing continuity and renewal.</i>	The political group leaders take a lead in this area and use the Member training programme to support this ambition as required.
6. Good governance means engaging with local people and other stakeholders to ensure robust public accountability	

<p><i>6.1. Exercising leadership through a robust scrutiny function which effectively engages local people & all local institutional stakeholders including partnerships, & develops constructive & accountability relationships.</i></p>	<p>The Council is clear that it is ultimately accountable to the citizens of Tonbridge & Malling. The Council's Corporate Performance Plan 2012/15 outlines the means by which local stakeholders will be engaged and how constructive, challenging relationships will be built. The Council has put in place Committees / Boards with cross-party representation to ensure effective and robust discussion of issues.</p> <p>The Council also has an Overview and Scrutiny Committee to scrutinise decisions made by Cabinet.</p>
<p><i>6.2. Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning.</i></p>	<p>The Council has a good understanding of who lives, works and plays in the borough and have mechanisms to listen to and respond to their needs, aspirations and concerns.</p> <p>The Council has taken action to develop and support effective engagement opportunities with all groups of the local community:-</p> <ul style="list-style-type: none"> • The Council promotes the TM Youth Forum that represents the views of young people living in Tonbridge and Malling • The Council supports the Tonbridge & Malling Seniors' Forum (TAMS) which promotes and the needs of the older resident. • The Council engages with other key stakeholders through a number of partnerships that the Council has embarked upon. • The Council actively uses complaints received to learn and improve services, whether through the internal complaints system or via the Ombudsman.
<p><i>6.3. Making best use of human resources by taking an active and planned approach to meet responsibility to staff.</i></p>	<p>The Council has Investors' in People accreditation for the whole Council and actively engages with its staff through:</p> <ul style="list-style-type: none"> • Team meetings • Regular performance management meetings • The Joint Employee Consultative Committee

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TONBRIDGE & MALLING BOROUGH COUNCIL

CABINET

24 June 2015

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Council

1 TREASURY MANAGEMENT UPDATE AND ANNUAL REPORT FOR 2014/15

A report detailing treasury management activity undertaken in April and May of the current financial year is to be considered by Audit Committee on 22 June. That report also includes details of the treasury management outturn for the 2014/15 financial year. Cabinet are invited to recommend Council endorse the action taken by Officers thus far in the current financial year and note the outturn position for 2014/15.

1.1 Introduction

1.1.1 Council adopted the 2009 CIPFA Code of Practice for Treasury Management on 18 February 2010. That Code, and subsequent updates, requires as a minimum that full Council receives an annual strategy published prior to the start of the financial year, a mid-year review of that strategy and an outturn report (this report).

1.1.2 Additional reports updating Members on current activity are presented to Audit Committee and performance is also reported on a regular basis to the Finance, Innovation and Property Advisory Board. The combination of Member reporting and detailed scrutiny of activity ensures this Council complies with best practice.

1.2 2015/16 Treasury Management Performance

1.2.1 As at the end of May 2015 funds invested and interest earned is set out in the table below.

	Funds invested at 31 May 2015 £m	Average duration to maturity Yrs	Weighted average rate of return %	Interest earned to 31 May 2015 £	Gross annualised return to 31 May 2015	7 day LIBID benchmark %
Cash flow	9.3	0.35	0.74	11,850	0.63	0.36
Core fund	13.4	0.38	0.81	17,750	0.79	0.36
Total	22.7	0.37	0.78	29,600	0.71	0.36

- 1.2.2 Interest earned of £29,600 is £1,600 better than budget and 35 basis points better than benchmark.

1.3 2014/15 Treasury Management Outturn

- 1.3.1 The 2014/15 Annual Investment Strategy made provision for externally managed core funds to be transferred to In-house management by the end of the year and, in so doing, generate a saving through reduced management fees. Members are reminded that the transfer to In-house management took place on 1 August 2014.
- 1.3.2 The outturn report reported to the Audit Committee is included in **[Annex 3]** of the Revenue and Capital Outturn report elsewhere on this agenda. Prudential and treasury indicators for 2014/15 are included at **[Annex 3 - Appendix 1]**.
- 1.3.3 Investment income of £164,250 earned during the year bettered the revised estimate by £4,100. The gross return for the year of 0.68% exceeds the 7-day LIBID benchmark by 33 basis points.

1.4 Legal Implications

- 1.4.1 Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority, including securing effective arrangements for treasury management.
- 1.4.2 This report fulfils the requirements of The Chartered Institute of Public Finance & Accountancy's Code of Practice on Treasury Management 2009.

1.5 Financial and Value for Money Considerations

- 1.5.1 At year end investment income for 2014/15 of £164,250 exceeded the 2014/15 revised estimate by £4,100. Investment income earned to the end of May 2015 of £29,600 is £1,600 above budget expectations for 2015/16.
- 1.5.2 All investments undertaken in 2014/15 and thus far in 2015/16 have complied with the requirements of the relevant Treasury Management Strategy Statement and Annual Investment Strategy.

1.6 Risk Assessment

- 1.6.1 The application of best practice as identified by the CIPFA Code, including the regular reporting and scrutiny of treasury management activity, is considered to be the most effective way of mitigating the risks associated with treasury management.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

1.8.1 Subject to any comments from the Audit Committee, Cabinet is invited to **RECOMMEND** that Council:

- 1) Endorse the action taken by officers in respect of treasury management activity for April and May 2015; and
- 2) Note the 2014/15 outturn position.

Background papers:

contact: Michael Withey

Nil

Sharon Shelton
Director of Finance and Transformation

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

29 June 2015

Report of the Director of Central Services

Part 1- Public

Matters for Recommendation to Council

1 HUMAN RESOURCES STRATEGY UPDATE

The Human Resources Strategy (HR Strategy) provides an overview of the Council's approach to managing its employees. It is updated annually to identify "improvement priorities", such as changes to the Council's personnel policies.

The updated HR Strategy attached as Annex 1 to this report advises the Committee on the progress in achieving the improvement priorities in the Human Resources Strategy (HR Strategy) for April 2014 – March 2015 and identifies actions to be implemented in the period April 2015 – March 2016. The updated Strategy in Annex 1 also contained the statutory equality monitoring required by the Equality Act 2010.

1.1 Overview of updates to the HR Strategy

1.1.1 Section 3 of the updated HR Strategy lists progress against the improvement priorities identified in 2014/15. The Committee will note that all of the identified actions were achieved.

1.1.2 Section 4 of the HR Strategy reports the outcomes of the equality monitoring of staffing issues in 2014/15. There is no evidence of discrimination against any of the protected characteristic groupings listed in the Equality Act 2010.

1.1.3 Section 5 of the HR Strategy advises the Committee of the improvement priorities that have been so far identified for 2015/16. This Section is referred to as The Workforce Development Plan (WDP) because periodically various external agencies, Government Departments etc. request information about the Council's Workforce Development Plan.

1.2 Legal Implications

1.2.1 The reporting of the outcomes of the Council's HR equalities monitoring as a statutory requirement of the Equalities Act 2010.

1.3 Financial and Value for Money Considerations

1.3.1 All of the actions listed in Section 5 of the attached Annex will be resourced from existing budgets.

1.4 Risk Assessment

1.4.1 The Workforce Development Plan in Section 5 of the HR Strategy complies with one of the recommended requirements of the Annual Governance Statement (part of the statement of accounts).

1.5 Equality Impact Assessment

1.5.1 The outcomes of equality monitoring as specified in Section 4 of the HR Strategy do not reveal any adverse differential impacts.

1.6 Recommendations

1.6.1 The Committee is commended to note the outcomes of the equality monitoring as reported in Section 4 of the HR Strategy and to recommend the actions listed in Section 5 to Council.

Background papers:

contact: Delia Gordon

Nil

Adrian Stanfield
Director of Central Services

Annex 1

HUMAN RESOURCES STRATEGY (incorporating the Pay and Workforce Strategy)

1 The Council's Aspirations

The Council aspires to provide customer focused efficient services. We also strive to continuously improve our performance and increase efficiency. In attempting to achieve these aspirations we are guided by the following corporate values:

- That all people having dealings with the Council have a right to equality of treatment, courtesy, promptness and integrity.
- The Council believes in fairness, consensus, involvement and learning in respect of its dealings with the people of the Borough and its communities, and that these values should be mirrored in the Council's relationship with staff.

2 Human Resource Strategy

The Human Resources Strategy is about recognising and developing the crucial contribution of every employee. This is prompted by the expectation/aspiration that all employees will:

- be customer focused
- be corporately aware
- demonstrate a "can do" approach to work
- appreciate the Council as a good employer
- consider themselves as colleagues in a joint endeavour to achieve the corporate vision.

Working with partners, external service providers, and other authorities, the Council will give ongoing consideration to the further development of the Strategy. The Strategy will be updated annually and will identify improvement priorities for the year ahead. The annual update will also report on the achievement of the improvement priorities identified the previous year.

In order to align our Human Resource activities with the Council's values and strategic aims, four key "building blocks" are used to inform and direct human resource activities. These are:

- Leadership and Management
- Effective Recruitment and Retention

- Communication and Team Working
- Workforce Development.

The Sections below provide an overview of the Council's current approaches to developing these "building blocks".

Leadership and Management Development

We want managers and supervisors throughout Tonbridge & Malling Borough Council to meet their responsibilities to their colleagues by providing leadership, direction, purpose and support.

- Managers and supervisors will be expected to proactively seek out opportunities for service transformation and to set standards to ensure that the Council's performance is continuously improved.
- All managers and supervisors will contribute to developing an organisational climate that encourages innovation, by encouraging their staff to engage positively in service transformation and in developing new ways of working.
- Corporate working will be promoted throughout the Council.
- All managers and supervisors will be expected to behave in accordance with the Council's Supervisory and Management Capability Checklists.
- Up to date advice, training and support on Council policies and procedures for dealing with a range of employee relations issues will ensure consistency of management style.
- New managers and supervisors will be equipped for their role by participating in appropriate training and development activities.
- Throughout their careers with the Council managers and supervisors will have opportunities to attend training and development events that reflect their responsibilities.

Effective Recruitment & Retention

We want an employment package that attracts and retains capable people who are committed to delivering excellent services to the community.

- We will balance internal progression with external recruitment to ensure that the Council continuously reinvigorates its talent pool, and that appropriate succession planning ensures an appropriately skilled workforce for the future.

- We will endeavour to attract suitable applicants by clear job descriptions, person specifications and advertisements.
- There will be a fair and consistent recruitment and selection framework that supports diversity within the workforce and that is regularly inspected by our internal audit team. Our workforce broadly reflects the ethnic distribution of the residents of the borough.
- We will offer employees a fair and competitive rate for the job that reflects the principles of equal pay. We will ensure equal status for part-time staff. In 2015/16 of a workforce of 277 permanent employees, 107 are employed on a part time basis.
- Wherever possible, we will offer employees flexible working opportunities that reflect the diversity of the workforce and facilitate a healthy Work Life Balance.
- We will ensure that working environments are safe and healthy. The Council is currently accredited with the ROSPA Gold Award.
- We will foster a supportive management ethos that recognises and values everyone's contribution.
- We will offer employees suitable training and development opportunities.

Communication and Team Working

We want to create a climate of trust, honesty and involvement. We recognise the need for open and honest two-way communication.

- We will maintain a system of annual individual appraisals and regular team briefings across the organisation.
- We will maintain a constructive relationship with accredited employee representatives and the Trade Union (Unison). There is an effective Joint Employee Consultative Committee which provides an opportunity for elected members, managers and employees to debate staffing issues.
- We will honour the Council's commitment to trust, honesty and involvement by working through employee relations issues according to the procedures specified in the Grievance, Disciplinary, Capability, Anti-Bullying and Harassment and Confidential Reporting Codes of Practice/Procedures.
- We will ensure that corporate information is easily accessible and will continue to develop the use of information technology for this purpose. All employees can access relevant corporate policies and e-learning modules on the Council's intranet.

- We will encourage development of a culture of corporate and co-operative working across the Council. The effectiveness of our Human Resources approach/policies are tested approximately every 3 years in a Staff Survey.
- We will encourage employees to influence the shape of future service delivery in an environment that embraces transformation and partnership working.

Workforce Development

We want employees to know how their contribution fits into the bigger picture, and to have the skills, knowledge and information they need to do their job effectively. We want them to feel committed to the Council and to enjoy coming to work.

- We will provide new employees with information about their job and employment package.
- Every new employee will undergo a customised induction process.
- All employee's will have an annual performance appraisal which will review their performance over the past year, set personal objectives for the year ahead, and identify any training and development needs.
- All employees will have access to training and development activities that are linked with their individual objectives as well as those of the service to which they belong.
- We will deal firmly and fairly with poor performance.
- On return from absence due to sickness, all employee's will engage in a return to work interview with their line manager that will attempt to identify any organisational factors which may have contributed towards their illness.

3 Achievement of Improvement Priorities for the period April 2013 to March 2014

Action	Progress
<p><i>Developing leadership capacity</i></p> <p>i) Provide structured development opportunities that enhance management capacity and enable succession planning that takes account of the anticipated departure of many senior staff over the next 5</p>	<p>The Chief Housing Officer has attended a short intensive managerial training course, and the Customer Services Support Officer is currently undertaking a Level 5 Leadership and Management training programme.</p>

years.	
<p><u><i>Developing the skills and capacity of the workforce</i></u></p> <p>i) Support the development of appropriate officers in skill sets required to meet current legislation/service requirements.</p> <p>iii) Provide Paediatric First Aid training for staff employed on the Summer Play Scheme.</p>	<ul style="list-style-type: none"> ➤ There have been 333 instances of employees undertaking off the job seminars, workshops or short courses, and 96 e-learning courses were completed. ➤ This was provided and appropriate First Aid was administered to the small number of “casualties”.
<p><u><i>Organisational development</i></u></p> <ul style="list-style-type: none"> ➤ Continue to re-align the Council’s Establishment with its re-defined priorities. ➤ Continue to develop the knowledge base of elected Members in response to changes in legislation, Government initiatives etc. 	<ul style="list-style-type: none"> ➤ 40 adjustments to job roles, changes in working patterns, re-grades, and deletion of posts have been agreed at the meetings of the General Purposes Committee in June, September and October 2014. ➤ Officers have provided Member briefings on a range of topics including planning, housing, waste management, and licensing, at Committee and Advisory Board meetings. In addition, the Leader attended the annual conference of the Local Government Association in order to provide up to date guidance on national trends etc., and, an off the job training course on the Use of Social Media was offered to all Members.
<p><u><i>Resourcing, recruitment and retention</i></u></p> <p>i) Provide work placements to local schools.</p> <p>ii) Continue to provide apprenticeship</p>	<ul style="list-style-type: none"> ➤ Numerous work placement opportunities have been provided for Year 10 and 11 students.

<p>placements for Customer Services at NVQ Level 2.</p> <p>iii) Seek to maintain the profile of the Council as an employer of disabled people by gaining re-accreditation of the Two Ticks Scheme.</p>	<ul style="list-style-type: none"> ➤ 2 placements were provided in partnership with K College and were successfully “filled”. The success of the programme has been evidenced by the permanent employment within the Council of one of the apprentices as a Clerical Support Officer. The other apprentice successfully obtained employment as an Office Manager in a small local building company. ➤ The Council successfully attained re-accreditation in January 2015.
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4 Equalities Monitoring 2014/15

In accordance with Equality legislation, the Authority is legally obliged to consider how our activities as an employer affect people who share different protected characteristics.

The information included in the tables below shows the outcomes of this monitoring for the period 2014/15. For the sake of comparison, a percentage analysis of the demographic profile of the Borough according to gender, ethnicity and disability is shown in Table 10 and a breakdown of the race, disability, gender and age distributions of the workforce in Tables 11 & 12.

In accordance with commitments made in the Equality Impact Assessment of the Flexible Working Policy the outcomes of the monitoring of the return rates from maternity leave and applications for flexible working are included in Tables 8 & 9.

Table 1 – Analysis of applications for jobs

Total Applicants	685
Male	258
Female	427
Disabled	28
Ethnic Minority	122

Shortlisted	121
Male	53
Female	68
Disabled	10
Ethnic Minority	13

Appointed	25
Male	10
Female	15
Disabled	1
Ethnic Minority	2

Table 2 – Analysis of Promotions

Promotions	16
Male	7
Female	9
Disabled	0
Ethnic Minority	1

Table 3 – Analysis of Disciplinary Hearings

Hearings	7
Male	5
Female	2
Disabled	0
Ethnic Minority	1

Table 4 – Analysis of Capability Hearings

Hearings	1
Male	1
Female	0
Disabled	0
Ethnic Minority	0

Table 5 – Analysis of Grievance Hearings

Cases	2
Male	0
Female	2
Disabled	0

Ethnic Minority	0
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Table 6 –Instances of staff within the Council receiving training for which a direct cost has been incurred.

Total	White	Non White	Male	Female	Disabled
333	327	6	141	192	10

Table 7 – Applications for changes to working patterns and flexible working, and success rates

Nature of the request	Requests	Requests granted
Flexible retirement	4	3
Reduction/increase in working hours or change in working pattern	16	16

Table 8 – Return rates from maternity leave

Category	Number
Number of employees on maternity leave in 14/15	4
Number still on maternity leave in 2015/16	1
Number of employees who left the Council's employment on or shortly after returning from maternity leave	0
Number who returned to employment with the Council.in 14/15	4

Table 9 – Demographic analysis of the Borough

Equality Characteristic	Percentage
Male	48
Female	52
White	96
Ethnic Minority	4
Permanently sick or disabled	3

Table 10 – Gender, disability and race distribution of the workforce

In March 2015 there were 277 permanent employees, of which 107 were part time.

Equality Characteristic	Headcount
Gender	Male – 101 Female - 176
Disability	Employees who consider themselves to be disabled – 5

Ethnicity	White – 229 Black – 3 Asian or Asian Black – 3 Other Asian – 0 Mixed - 0
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Note – any discrepancies in the totals above are due to employees not disclosing personal information.

Table 11 – Age distribution of the workforce

Age range	Number of employees
Up to 19	0
20 - 25	13
26 - 35	33
36 - 45	70
46 - 55	88
56 - 65	66
Over 65	7

5 Workforce Development Plan April 2015 – March 2016

Developing leadership capacity

- Continue with the provision of structured development opportunities that enhance our management capacity and enable succession planning that takes account of the potential departure of many experienced staff over the next five years.

Developing the skills and capacity of the workforce

- Continue to support the ongoing professional development of staff, and to equip them with the knowledge and skills required to deliver services, to respond to changes introduced by the Government, and to the Council's transformational agenda. Specific areas of need will be identified during the 2015/16 performance appraisal process.

Organisational Development

- Consider the impact on the Council's policies of any proposals from the Government to amend existing employment legislation, and re-align the Council's HR policies with the timetable for any proposed amendments.

- Continue to provide briefings for Members on legislative change etc. at Committee meetings and Advisory Boards, and, where appropriate commission dedicated training sessions on cross cutting corporate issues such as safeguarding children and vulnerable adults.

Resourcing, recruitment & retention

- Continue to re-align the Council's Establishment with its re-defined priorities.
- Continue to explore options with other Councils for shared service delivery.
- Continue to ensure that work placements are provided to local schools, and up to 3 apprenticeships are offered in Customer Service skills.
- Seek to maintain the reputation of the Council as an employer of disabled people by gaining re-accreditation of the Two Ticks Scheme (by February 2016).

Pay and Reward

- Track the benefits package offered by our competitors for staff and keep the Council's package under review (ongoing).
- Review the Pay Policy Statement (by March 2016).
- Monitor the rates of the reimbursement of subsistence expenses for those attending training and development activities (as specified in the Training Expenses and Facilities Scheme) to ensure parity with changes in the Consumer Prices Index.

TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

14 July 2015

Report of the Director of Central Services & Monitoring Officer

Part 1- Public

Matters For Decision

1 CHANGES TO CONSTITUTION - DISMISSAL OF STATUTORY OFFICERS

Members are asked to agree changes to the Constitution relating to the dismissal of statutory officers as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

1.1 Introduction

1.1.1 The coalition government made legislative changes which require the Council to amend its standing orders insofar as they relate to disciplinary action against and the dismissal of the Council's 3 statutory officers i.e. the head of paid service, monitoring officer and chief finance officer. The report identifies the necessary changes and recommends that the Council approves the appropriate amendments to the constitution.

1.2 Background

- 1.2.1 Since the Council commenced operating executive arrangements it has been a requirement of the Local Authorities (Standing Orders) (England) Regulations 2001 ('the 2001 Regulations') that the Council makes or modifies standing orders so that they include certain provisions relating to staff and other matters. The Officer Employment Rules contained within Part 4 of the Council's Constitution currently incorporate standing orders which comply with the requirements of the regulations.
- 1.2.2 The provisions required to be in the standing orders in relation to staff operated so as to require the council to appoint a "designated independent person" before it could discipline or dismiss its head of paid service, monitoring officer or chief finance officer.
- 1.2.3 On 25 March, in furtherance of a long standing commitment to do so, the Secretary of State for Communities and Local Government made the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which came into force on 11th May 2015 ('the 2015 Regulations'). The 2015 Regulations repeal the provisions of the 2001 regulations insofar as they relate to

the appointment of the “designated independent person” and make new provision about the procedure to be followed to dismiss a head of paid service, a monitoring officer or, a chief finance officer. These provisions must be incorporated into the Council’s standing orders “no later than the first ordinary meeting of the authority falling after 11th May 2015”.

- 1.2.4 The 2015 Regulations require that before dismissing one of the officers identified above, the Council must appoint a “panel” for the purpose of advising on matters relating to the dismissal of the relevant officer. The Council must invite independent persons who have been appointed under section 28(7) of the Localism Act 2011 to be considered for appointment to the panel, with a view to appointing at least two such persons to the panel. These independent persons are those appointed by the Council in connection with the procedures for dealing with alleged breaches of the Code of Conduct for members. Currently, the Council has 2 independent persons – David Ashton and John Gledhill.
- 1.2.5 The Department for Communities and Local Government have issued an explanatory memorandum to the 2015 Regulations which is attached as **Appendix 1**.
- 1.2.6 The governance consultancy firm Hoey Ainscough Associates Limited working with Wilkin Chapman Goolden solicitors have also produced a useful briefing note which expands on some of the implications of the 2015 regulations. A copy of this is attached as **Appendix 2**.

1.3 Legal Implications

- 1.3.1 The requirements of the 2015 Regulations are mandatory insofar as they relate to the adoption of the prescribed standing orders and therefore it is not possible to put options before the Council for consideration in this regard.
- 1.3.2 As will be noted from paragraph 28 of the briefing note at Appendix 2, the Council does have a choice as to whether it appoints a standing panel in pursuance of the standing orders or, whether it only appoints one if and when the need arises.

1.4 Financial and Value for Money Considerations

- 1.4.1 None.

1.5 Risk Assessment

- 1.5.1 The circumstances giving rise to the need to appoint the panel are likely to occur very infrequently, if at all. It is therefore not proposed that the Council should appoint a standing panel. In the event that one was to be needed, this would be the subject of a report to Council at the time.
- 1.5.2 There is also a fundamental legal difficulty in attempting to appoint a standing panel and this lies in the need to ensure that the panel is comprised of members

who are impartial. The nature of the positions to which the 2015 applies is such that there is a high probability that one or more members will themselves be involved in any disciplinary action whether as instigators of it or, as witnesses. Clearly, any member involved in this capacity could not sit on the panel. Therefore, until a particular issue arises and the circumstances are known, it would not be possible to identify which members could and (more importantly) could not, sit on the panel.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

- 1.7.1 Council is invited to **APPROVE** the amendments to the Officer Employment Procedure Rules set out at **Appendix 3** to give effect to the requirements of Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Background papers:

contact: Adrian Stanfield

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

Adrian Stanfield
Director of Central Services &
Monitoring Officer

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EXPLANATORY MEMORANDUM TO
THE LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) (AMENDMENT)
REGULATIONS 2015

2015 No. 881

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government (“the Department”) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Local Authorities (Standing Orders) (England) Regulations 2001 (“the 2001 Regulations”) in order to make provision about the standing orders of local authorities in relation to staff and disciplinary procedures.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 8 of the Local Government Housing and Land Act 1989 (“the 1989 Act”) allows the Secretary of State by regulations to require certain local authorities to incorporate prescribed provisions in standing orders relating to their staff. Section 20 allows the Secretary of State by regulations to require certain local authorities to adopt prescribed procedural standing orders.

4.2 Section 4 of the 1989 Act requires certain local authorities to designate one of their officers as the “head of paid service” and section 5 requires authorities to designate one of their officers as the “monitoring officer”. Section 6 of the 1989 Act and section 151 of the Local Government Act 1972 require authorities to have an officer with responsibility for financial administration, who is referred to in the 2001 Regulations as the “chief finance officer”.

4.3 Section 28(6) of the Localism Act 2011 requires relevant authorities¹ other than parish councils to have in place arrangements under which allegations can be investigated and decisions on allegations can be made. The authority is required by section 28(7) of that Act to appoint an independent person whose views are to be sought, and taken into account, by the authority before making a decision on an allegation that it has decided to investigate.

4.4 The 2001 Regulations require English county, district, and London borough councils, the Common Council of the City of London and the Isles of Scilly to make or modify standing orders to include certain provisions relating to staff and procedural matters. These include provision about the procedures for disciplinary action against

¹ “Relevant authorities” is defined at section 27(6) of the 2011 Act.

certain senior officers, and the appointment and dismissal of the head of paid service, its monitoring officer or its chief finance officer.

4.5 Article 16 of, and paragraph 3(2) of Schedule 3 to, the New Forest National Park Authority (Establishment) Order 2005 apply regulations 6 and 7 of the 2001 Regulations to the New Forest National Park Authority, as if it were a local authority as referred to in the 2001 Regulations.

5. Territorial Extent and Application

This instrument applies to councils in England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The most senior officers of a council i.e. the head of paid service, the monitoring officer, and the chief finance officer, have statutory responsibilities to discharge to their councils. Since they work with and report to the elected members, they discharge these responsibilities in a political environment. As a result, statutory protection requiring an appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these senior officers was introduced in the 2001 Regulations. Prior to 2001, a similar provision, but only in relation to the Head of Paid Service, was included in the Local Authorities (Standing Orders) Regulations 1993 (S.I. 1993/202). The DIP is appointed early in the procedure, when it appears to a council that an allegation of misconduct by the relevant officer requires to be investigated. No disciplinary action in respect of these most senior officers may be taken other than in accordance with a recommendation in a report made by a Designated Independent Person. In practice, often the DIP appointed by councils is a barrister with experience of employment law. The intention of this provision is to ensure that these officers can discharge their duties without any fear of being influenced by elected members and being dismissed without good reason.

7.2 There have been for some time concerns that the DIP process in its application to councils is in practice complex and expensive. It has placed councils as the employer at a great disadvantage in comparison to the position of the employee, particularly given that the recommendation of the DIP must be followed. The Local Government Association Group has estimated that the minimum legal cost of the process is £100,000, excluding the cost of the investigation, preparing the case and briefing lawyers². The DIP process is time consuming particularly where the council and the senior officer concerned could not agree on a DIP, where the process can take over 15 months to reach completion.

² By mutual agreements – Severance payments to council chief executives. Local Government report March 2010. This document is available at <http://archive.audit-commission.gov.uk/auditcommission/sitecollectiondocuments/Downloads/20100315bymutualagreementrep.pdf>.

7.3 In addition, where there are disciplinary actions against these most senior officers, there have been some suggestions that some councils prefer to negotiate severance payments rather than go through the formal DIP process. This is evidenced in the House of Commons Communities and Local Government Committee's report³, which highlights the view of the Local Government Association witness that undertaking a performance management process for top staff can currently be "very damaging and timing consuming." The Government believes that such a process is not appropriate as it defeats the purpose of having the DIP process in place. Councils ought to act in the best interest of local taxpayers and not be paying inflated sums to senior officers in order to avoid taking the costly and bureaucratic DIP route.

7.4 These Regulations simplify, as well as localise, the disciplinary process for the most senior officers by removing the bureaucratic and mandatory requirement that a DIP should be appointed. In place of the DIP process, the decision will be taken transparently by full council, who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned. This means that councils can consider and decide the best disciplinary process that will deliver value for money for their local taxpayers, whilst retaining independent scrutiny.

7.5 In the case of a proposed disciplinary action against one of the most senior officers, the council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011 to form an independent panel. An independent panel will be formed if two or more independent persons accept the invitations, and councils should issue invitations in accordance with the following priority order:

- an independent person who has been appointed by the council and who is a local government elector,
- any other independent person who has been appointed by the council, and
- an independent person who has been appointed by another council or councils.

These requirements allow local people to be involved in the disciplinary process for senior officers and makes councils more accountable to their community.

7.6 The Regulations also make a provision limiting the remuneration that should be paid to independent persons on the panel to the level of the remuneration which they would normally receive as an independent person in the conduct regime. The conduct regime remuneration is a modest annual allowance or small meeting fee, and this approach ensures that the new process will not involve high costs.

7.7 The Regulations provide for the new arrangements for taking disciplinary action against the most senior council staff to be given effect by councils modifying their standing orders. Provision is made for councils to make this modification no later than at the first ordinary council meeting held after the 7 May 2015 elections. To achieve this the Regulations come into force on 11 May 2015.

³ Local Government Chief Officers' remuneration, published in September 2014. This document is available at <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmcomloc/191/191.pdf>.

- ***Consolidation***

7.8 The Government intends to consolidate the relevant regulations regarding Standing Orders into a new set of Regulations, which we anticipate to include the preserved requirements under the Local Authorities (Standing Orders) Regulations 1993 (S.I. 1993/202), the 2001 Regulations, the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 (S.I. 2014/165) and these Regulations. However, we are unable to do this before this Parliament is dissolved. We, therefore, aim to consolidate these Regulations as soon as practicable in the new Parliament.

8. Consultation outcome

8.1 In February 2013 we sought the views of the Local Government Association (LGA), Lawyers in Local Government (formerly Association of Council Secretaries and Solicitors), the Society of Local Authority Chief Executives (SOLACE), the Association of Local Authority Chief Executives (ALACE), the Taxpayers' Alliance, the Chartered Institute of Public Finance and Accountancy (CIPFA), the Centre for Public Scrutiny (CfPS), District Councils' Network, and the Association of Democratic Services Officers (ADSO), over four weeks. These are the main representative organisations of those involved in the local government sector. Their views were invited on draft amendment regulations that provided for the abolition of the DIP process and for any dismissal decision of top officers to be taken by full council. Responses were received from LGA, SOLACE, ALACE, CfPS, Lawyers in Local Government, ADSO, CIPFA and a number of other partners, including councils. There was wide support for the abolition of the existing bureaucratic DIP process but none considered relying wholly on a full council decision would provide adequate safeguards for top staff against inappropriate dismissal. In May 2013, the Department officials met with officials from LGA to further discuss the Government proposals.

8.2 We sought the views of these partners in December 2013 for five weeks on revised draft regulations which provided that any decision to dismiss top staff must be taken by the full council, and that full council be required to consider any report about the proposed dismissal which a panel drawn from members of the council's independent remuneration panel (IRP) thought fit to put before the council. The Department received responses from most of these partners including the LGA, SOLACE and ALACE. Responses were also received from some councils and interested partners such as the Society of County Treasurers, the Association of Policing & Crime Chief Executives, and the Police and Crime Commissioners Treasurers' Society, all of which have been carefully considered before finalising the Regulations.

8.3 There was continuous support for the abolition of the existing DIP process, as well as general support for a panel to make a report to the full council before a dismissal decision is taken. However, concerns were raised about the skill set of the the panel members, and the detailed prescription about how the panel might operate. A number of partners suggested that independent persons appointed for the purpose of propriety and conduct under section 28(7) of the Localism Act 2011 would be better placed than members of the council's IRP to fulfil the role of the proposed new panel given that their role relates to the consideration of disciplinary matters.

8.4 The LGA, in their response, accepted that the existing DIP process has “undoubtedly created a process that is overly bureaucratic and time consuming”. Whilst they support the removal of the existing bureaucratic statutory process, their preferred approach was to streamline the DIP process, requiring the appointment of DIPs from a list of qualified independent people that the LGA would keep. They believed that the list, which would operate as a “taxi rank” system, would remove the lengthy delays created by the current process and reduce costs by introducing fixed rate payments.

8.5 The Government accepts the view that independent persons appointed for the purposes of the members’ conduct regime under section 28(7) of the Localism Act 2011 would be better placed for the role proposed. It also accepts that the proposed process should be simplified, leaving significantly greater flexibility for individual councils. However, the Government does not accept that the LGA’s “taxi rank” approach would be suitable. Such an approach does not support the principles of localism and accountability that the new rules aim to achieve, in that dealing with disciplinary action against top officers would not be in the hands of the full council. This would also continue to put councils, as the employer, at a disadvantage in comparison to the position of the employee. Given the extensive engagement the Government has had with partners since 2013, the Government does not consider that any further consultations are necessary and has proceeded to make and lay these Regulations on the basis outlined above.

9. Guidance

9.1 These regulations are considered to be self explanatory. There are no plans to provide additional guidance.

10. Impact

10.1 An impact assessment has not been produced for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The Regulations simplify the processes for dismissing the most senior council staff, in particular putting any decisions fully in the hands of the council’s members who are accountable to their electorate for the decisions they take. With these new arrangements it is expected that the performance management of the most senior staff will be both more effective and efficient with potentially lower costs in the case of departures/dismissals than currently.

11. Regulating small business

11.1 This instrument does not apply to small business.

12. Monitoring & review

12.1 The Regulations make amendments to the existing 2001 Regulations and the Department does not intend to put in place any formal mechanism for monitoring and reviewing these Regulations. Any issue arising from these Regulations will be

addressed through the Department's on-going dialogue with the Local Government Association.

13. Contact

Tayo Peters at the Department for Communities and Local Government
Tel: 03034442551 or email: tayo.peters@communities.gsi.gov.uk can answer any queries regarding the instrument.

NOTE ON THE NEW REGULATIONS RELATING TO DISMISSAL OF SENIOR OFFICERS

Background

1. The Government issued new regulations on 25 March 2015 to come into force on 11 May. The Regulations introduce new arrangements for dealing with disciplinary cases involving a council's three statutory officers - the Head of Paid Service, Monitoring Officer and Chief Finance Officer. The new Regulations contain requirements for councils to amend their Standing Orders.
2. Because these three roles are statutory positions with specific roles and personal responsibility to ensure a council acts lawfully and has effective governance in place, they have had specific protection from dismissal under legislation in order to avoid them being scapegoated or victimised by local politicians were they to blow the whistle on impropriety within the authority. This is because the proper discharge of these personal responsibilities can bring the statutory officer into conflict with members of their authority, as their report may conflict with the political objectives of the authority, or indicate misconduct by a particular member.
3. Traditionally, before one of these officers could be dismissed, the council had to appoint a designated independent person (DIP) to carry out an investigation into the circumstances. The DIP was appointed on agreement between the council and the officer concerned, although if no agreement could be reached on the individual the Secretary of State had reserve powers to impose a DIP. The council could then only take disciplinary action in accordance with the DIP's report and recommendation.
4. The Secretary of State regarded this as a cumbersome and expensive process and wished to make it easier and cheaper for such officers to be dismissed where the council believed there had been significant misconduct or poor performance. He had therefore been consulting on draft regulations to streamline the arrangements and in particular remove the need for the DIP.
5. Concerns had been expressed by local government, however, that it was important to continue to provide some form of protection so that chief officers could not be dismissed purely because of political differences or for speaking uncomfortable truth unto power.
6. The new Regulations therefore seek to introduce a new streamlined procedure while attempting to retain some sort of independent check within the system. This is broadly done by giving the 'independent person' (IP) appointed to support the members' conduct framework a role in the disciplinary process for chief officers.
7. However, the regulations do raise a number of issues, both about the role of the IP and the way the process would work more generally, which remain to be clarified. This paper therefore summarises our initial understanding of the new process and some of the issues councils will need to consider. These Regulations do not stand alone but need to be considered in conjunction with wider provisions relating to local authority governance and any local process will have to have regard to general principles of employment law as well as any contractual employment agreements, so we should stress that these views below are only preliminary views and may be amended after further analysis.

The new process – in brief

8. The Regulations introduce new mandatory standing orders which all councils will have to put into their constitution to replace arrangements relating to the previous framework.

9. In brief, from now on, only the full council can dismiss one of the three statutory officers. Previously the decision could have been delegated to a committee or to the Head of Paid Service.
10. Before considering such action, the council must set up a panel whose role will be to give views, advise and make recommendations to the full council. The council must invite independent persons to sit on this panel. The panel must be appointed at least 20 working days before the relevant meeting of full council.

Issues – the independent person on the panel

11. There is no statutory minimum or maximum number of IPs that the council must appoint with regard to member misconduct issues. Some councils only have one, others have more than one.
12. Under the officer disciplinary process, the panel must invite at least two IPs to be on the panel, but can invite more. It is worth noting that the Regulations say the IP must be invited, but there is no obligation on any IP to take up the invitation, nor is there anything which would prevent the panel sitting if the IPs did not attend.
13. IPs are to be invited in a particular order. First priority is to be given to an IP appointed by the council who is also an elector in that council's area. If that proves insufficient numbers or the invite is refused, the council should invite any other IP it has appointed. And finally, it can then approach IPs from other authorities.

Issues – composition of the panel

14. The covering letter from DCLG accompanying the Regulations describes the panel as an 'independent panel'. In fact the Regulations state that it is to be a panel drawn from the council in accordance with the Local Government Act 1972 which means that it has to comply with certain legal requirements.
15. As by law it is an advisory panel under s102(4) of that Act, this can indeed be a panel consisting solely of independent (non-elected) members appointed for that purpose, which would meet the Government's stated aim of an 'independent panel'. However, there is nothing to say this has to be the case. It could also include elected members – and indeed if no IP takes up the invitation it would have to be made up of elected members.
16. If the Panel includes elected members then the political proportionality rules will apply to any elected members on the Panel, unless the Council votes to waive the proportionality requirements. In considering the composition of any Panel the principles of natural justice and employment law considerations would need to be borne in mind.
17. By virtue of s13 (3) and (4) of the Local Government and Housing Act 1989 IPs who are appointed to an advisory panel have the right, alongside any elected members to vote on matters at that panel. This differs from the IP's role in relation to member conduct issues, where they are there simply to give views rather than to make decisions and have no voting rights.
18. Incidentally, that would mean that any IP appointed to such an advisory panel would be considered a co-opted member with voting rights, and hence would become subject to the code of conduct under the Localism Act, including the requirements to register and declare DPs.
19. There is no upper limit placed on the membership of the panel, although by convention a panel should always consist of a minimum of three members. Although there is no obligation to invite more than two IPs, if the panel consists of wholly independent appointees, three IPs would have to attend. Otherwise, there must be at least one elected member alongside two IPs.

Issues – how would the panel carry out its considerations?

20. Inevitably the business of the panel relates to employment law and contractual matters. So, while there is no requirement for HR expertise on the panel, they would clearly need to have access to proper legal and HR advice to help their deliberations.
21. There is also no requirement specified as to what they are to consider. However, it is likely if they are to consider whether a dismissal can be justified, they would have to consider the outcome of an investigation or at the very least hold a hearing on the matter in hand. This is not least because employment law and existing contractual terms and conditions would still apply to the operation of the panel.
22. Regardless of the contractual provisions for a DIP in the JNC Chief Officer conditions of service, employment lawyers will be very familiar with the tests of employer reasonableness set out in sections 98(4) of the Employment Rights Act 1996. Whether the council's dismissal of a statutory officer will be regarded as fair or unfair by the Employment Tribunal will be determined by the circumstances (including the size and administrative resources of the council) and whether it acted reasonably. Iceland Frozen Foods v Jones [1982] IRLR 439 remains the leading case on the test to be applied. It is likely to be unfair to dismiss unless a reasonable and sufficient investigation into the alleged misconduct has been carried out, including the provision of an opportunity to explain.
23. Previously, the investigation was done by the DIP. The Government implies the guarantee of independence provided by the DIP has been replaced by the independence of the IP. Yet it seems unlikely that the expectation is that the IP would carry out any investigation, as that is not their role, so there will still need to be some sort of investigator appointed to provide evidence for the panel to consider.
24. It must be remembered that the panel is not the ultimate decision-making body – it is merely there in turn to advise the full council – so its procedures will need to reflect this.
25. That said, unless and until JNC terms and conditions are amended any procedure would need to comply with these contractual obligations. In particular, the JNC terms refer to the need for there to be an investigation committee to consider the findings of an independent investigation, and for there also to be an appeals committee. We would consider the advisory panel to meet the requirements for an investigating committee even though it is merely making recommendations rather than a final decision, but councils will need to consider how the need for any appeals committee would be met.
26. When the matter is referred to full council, it must have regard to any views, advice or recommendations made by the panel as well as the findings of any investigation and any representations made by the officer concerned.

What the council needs to do

27. These changes to standing orders come into force on 11 May. Councils must therefore adopt these changes at their first ordinary council meeting after that date. At the risk of sounding trite an ordinary meeting would be any meeting which is not 'extraordinary' under schedule 12 para 3 of the 1972 Act. Hence the annual meeting would be classed as an ordinary meeting.
28. Councils will need to decide whether they wish to create a standing panel or not. In any case, they should agree what the composition of any panel they might need to set up in future should be and agree procedural rules for the panel in case it needed to be convened in the future, to avoid future arguments about arrangements at a time when sensitivities would be likely to be high.
29. The Regulations also allow an allowance to be paid to any IPs appointed to the panel. Councils should consider now what those allowances might be and how they are incorporated into any existing

allowances IPs might currently be getting. The Regulations say this allowance cannot be more than the allowance paid to the IP for their 'member conduct' role. While this is not entirely clear, the implication does seem to be they can receive two separate allowances – one for this role and one for the member conduct role, provided the allowance for this role does not exceed that paid for the member conduct role.

Implications and considerations for IPs

30. IPs will need to be aware of the implications of these Regulations for their role. Chief officer dismissals can arise in a number of circumstances – where serious misconduct has been found, where there has been serious performance issues or occasionally where there has been a breakdown in relations between the officer and politicians. This last scenario will always prove the most contentious as officers can only be dismissed where there are clear grounds to do so under employment law.
31. In particular therefore IPs will need to think how they would carry out their role where the issue arises from a breakdown in relationships. They will need clear guidance on relevant and irrelevant factors they will need to consider.
32. While the Regulations say that IPs have to be invited to participate, it does not appear that they have to accept the invitation. If IPs decline the invitation, it seems clear that the council will have discharged its duty by inviting them so can proceed in their absence. IPs will therefore need to consider the grounds on which they would/would not accept the invitation.
33. As with their role in dealing with member conduct issues, the IP role here appears to be above all that of a guarantor of independence and due process. Even though they are part of the panel, unlike with member conduct issues where they merely give views to the relevant panel, it is not the panel which is the final decision-making body. IPs will therefore need to consider how they would fulfil their role on the panel and, in particular, how they would make representations if they disagree with conclusions reached by the councillors on the panel, particularly where they think the conclusions have been influenced by political rather than employment considerations, or if they do not believe that full council has properly taken the panel's views into consideration.
34. As their role is similar to their role in terms of member conduct, albeit they would have voting rights, we see no need to consider recruiting IPs with different mindsets or skillsets. They will not need to be employment law experts but merely able to reach an independent view based on evidence presented.
35. An IP would become bound by the code of conduct and related statutory obligations were they to become members of the panel and will therefore need to be reminded of their obligations when they do so.

A final reminder

35. Such cases are of course, thankfully, very rare. The most important role for an IP will remain in relation to member misconduct and that should be the main emphasis when recruiting and training IPs. This will simply be an additional duty which they will need to be aware of, but may never be called upon to exercise.

Note prepared by

PAUL HOEY AND NATALIE AINSCOUGH, HOEY AINSCOUGH ASSOCIATES LTD and JONATHAN GOOLDEN, WILKIN CHAPMAN LLP

2 APRIL 2015

Officer Employment Procedure Rules

1. Recruitment and appointment

1.1 Declarations

- (i) A candidate for any Council appointment will, when making application, inform the Chief Executive of any relation they know to be a Member or senior officer of the Council. A candidate who knowingly fails to disclose a relationship will be disqualified for the appointment and if appointed be liable to dismissal without notice. Every Member or senior officer of the Council will inform the Chief Executive of any relationship known to him/her with any person he/she knows is a candidate for an appointment. The Chief Executive will report any such disclosure to the Council or appropriate Member or officer making the appointment.
- (ii) This rule will be included in appropriate recruitment literature.
- (iii) For the purpose of this rule only "senior officer" means any Council officer graded SO or above. Persons will be deemed to be related if they are – parent, grandparent, spouse, partner, child, grandchild, brother, sister, uncle, aunt, nephew or niece of a member/candidate/senior officer.
- (iv) Where a candidate has declared such a relationship, any offer of employment shall be subject to approval by the appropriate Director, except where the Director is the officer to whom the candidate has declared a relationship, in which case the Chief Executive or Director of Central Services will approve any proposed offer of employment.

1.2 Seeking support for an appointment

- (i) Canvassing of Members or senior officers directly or indirectly for any appointment will disqualify the candidate. Recruitment literature will include a note to this effect.
- (ii) A Member shall not solicit for any person any Council appointment but may give a written testimonial of a candidate's ability, experience or character for an application for 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:

2.1 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;
- 2.2 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
- 2.3 Make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.

3. Appointment of Chief Executive

- 3.1 The full Council will approve the appointment of the Chief Executive following the recommendation of such an appointment by a Panel of Members appointed by the Council for that purpose. This Panel will include at least one member of the Executive.
- 3.2 The full Council may only approve the appointment of the Chief Executive where no well founded objection has been made by any member of the Executive.

4. Appointment of chief officers, i.e. officers graded M4 and above (other than the Chief Executive)

- 4.1 The appointment of chief officers other than the Chief Executive will be made by a Panel of Members appointed by the Council for that purpose. This panel will include at least one member of the Executive.
- 4.2 An offer of employment shall only be made where no well founded objection from any member of the Executive has been received.

5. Other appointments

- 5.1 **Officers below chief officer.** Appointment of officers below chief officer is the responsibility of the Chief Executive or his/her nominee, and may not be made by councillors.
- 5.2 **Political assistants.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

6. Disciplinary action against certain post holders

- ~~6.1 **Suspension.** The Chief Executive, Monitoring Officer and Director of Finance & Transformation 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.~~
- ~~6.21 **Independent person.** No 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. A relevant officer* may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) is complied with.~~

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~~* relevant officer means the chief finance officer, head of the Council's paid service or monitoring officer as the case may be.~~

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- 6.32 Council Members 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 action taken under those procedures.

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.

8. Local Authorities (Standing Orders) (England) Regulations 2001

The rules set out in the Annex shall have effect in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

Provisions to be incorporated into standing orders relating to staff

1. In this Part -

"the 1989 Act" means the Local Government and Housing Act 1989;
"the 2000 Act" means the Local Government Act 2000;
"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;
"executive" and "executive leader" have the same meaning as in Part ~~II~~1A 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 an officer appointed by the authority for the purposes of the provisions in this Part.

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.

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, as the case may be, must approve that dismissal before notice of dismissal is given to him.~~

(1A) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of dismissal of an officer designated as the head of the authority's paid service, as the authority's chief finance officer, or as the authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

(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 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 within that period from the executive leader; or

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

6. - (1) In this paragraph, "dismissor" means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

(2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until -

(a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;

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

(i) the name of the person who the dismissor wishes to dismiss;

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

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

(c) either -

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

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

(iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.

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

(a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or

(b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Provisions to be incorporated in standing orders in respect of disciplinary action

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1. In the following paragraphs—

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(a) “the 2011 Act” means the Localism Act 2011(b):

(b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

(c) “independent person” means a person appointed under section 28(7) of the 2011 Act;

(d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

(e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;

(f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

(g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.

2. A relevant officer may not be dismissed by an authority unless the procedure set out in the following paragraphs is complied with.

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3. The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.

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4. In paragraph 3 “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

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5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—
(a) a relevant independent person who has been appointed by the authority and who is a local government elector;
(b) any other relevant independent person who has been appointed by the authority;
(c) a relevant independent person who has been appointed by another authority or authorities.

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6. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 5 but may do so.

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7. The authority must appoint any Panel at least 20 working days before the relevant meeting.

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8. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—

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(a) any advice, views or recommendations of the Panel;
(b) the conclusions of any investigation into the proposed dismissal; and
(c) any representations from the relevant officer.

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9. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.

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TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

14 July 2015

Report of the Director of Central Services

Part 1- Public

Matters For Decision

1 APPOINTMENTS TO OUTSIDE BODIES

To consider the nomination of a person to serve as a Trustee of the Hospital of the Holy Trinity, Aylesford and to ratify the appointment of Councillor D Davis to the Lower Medway Internal Drainage Board.

1.1 Hospital of the Holy Trinity, Aylesford

1.1.1 A request has been received from the Clerk to the Trustees of the Hospital of the Holy Trinity for the Council to nominate another councillor to serve on their board following the retirement of Mr Peter Homewood as a Borough councillor. The term of office is four years and there are three meetings per year.

1.2 Lower Medway Internal Drainage Board

1.2.1 When Mr P Homewood resigned as one of the Council's representatives on the Lower Medway IDB the Leader asked Councillor Dave Davis to attend meetings of the Board in his place. The Council is now requested to ratify Councillor Davis' appointment to this body.

1.3 Legal Implications

1.3.1 None.

1.4 Financial and Value for Money Considerations

1.4.1 Not applicable.

1.5 Risk Assessment

1.5.1 Not applicable.

1.6 Equality Impact Assessment

1.7 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

1.8.1 RECOMMENDED that

- 1) the Council consider the nomination of a replacement Trustee of the Hospital of the Holy Trinity for a four year term of office; and
- 2) the appointment of Councillor Dave Davis as a representative on the Lower Medway Internal Drainage Board be confirmed.

Background papers:

contact: Claire Fox

Letter dated 26 May 2015 from Clerk to Trustees,
Hospital of the Holy Trinity

Adrian Stanfield
Director of Central Services

Agenda Item 15

To authorise the Common Seal of the Council to be affixed to any Contract, Minute, Notice or other document requiring the same.

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