

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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**Chief Executive**

Julie Beilby BSc (Hons) MBA

Gibson Building

Gibson Drive

Kings Hill, West Malling

Kent ME19 4LZ

West Malling (01732) 844522

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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, 17th February, 2015 at 7.30 pm, when the following business is proposed to be transacted:-.

### PART 1 - PUBLIC

1. Apologies for absence
2. Declarations of interest  
To declare any interests in respect of recommended items
3. Minutes 5 - 10  
To confirm as a correct record the Minutes of the meeting of Council held on 4 November 2014
4. Mayor's Announcements
5. Questions from the public pursuant to Council Procedure Rule No 5.6
6. Questions from Members pursuant to Council Procedure Rule No 5.5
7. Leader's Announcements

8.	Reports, Minutes and Recommendations	11 - 12
	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 17.	
9.	Social Media Policy	13 - 24
	Item GP 14/22 referred from General Purposes Committee minutes of 13 November 2014	
10.	Code of Conduct Complaints - Review of Arrangements	25 - 60
	Item ST 15/3 referred from Joint Standards Committee minutes of 19 January 2015	
11.	Overview and Scrutiny Committee - Annual Report	61 - 66
	Item OS 15/3 referred from Overview and Scrutiny Committee minutes of 27 January 2015	
12.	Localism Act - Pay Policy	67 - 76
	Item GP 15/4 referred from General Purposes Committee minutes of 2 February 2015	
13.	Treasury Management Strategy Statement and Annual Investment Strategy 2015/16	77 - 114
	Item CB 15/3 referred from Cabinet minutes of 3 February 2015	
14.	Update of Anti-Fraud Policies	115 - 116
	Item CB 15/4 referred from Cabinet minutes of 3 February 2015	
15.	Policy in Respect of Discretionary Council Tax Awards	117 - 126
	Item CB 15/5 referred from Cabinet minutes of 3 February 2015	
16.	Setting the Budget for 2015/16	
	Item referred from Cabinet minutes of 12 February 2015	
17.	Setting the Council Tax for 2015/16	
	Item referred from Cabinet minutes of 12 February 2015	
18.	Changes to the Constitution	127 - 132
19.	Appointments to Outside Bodies	133 - 134

20. Sealing of Documents

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, 9 February 2015

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### COUNCIL MEETING

Tuesday, 4th November, 2014

At the meeting of the Tonbridge and Malling Borough Council held at Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 4th November, 2014

**Present:** Her Worship the Mayor (Councillor Mrs S Luck), the Deputy Mayor (Councillor O C Baldock), Cllr A W Allison, Cllr Mrs J A Anderson, Cllr J Atkins, Cllr Ms J A Atkinson, Cllr J A L Balcombe, Cllr Mrs J M Bellamy, Cllr T Bishop, Cllr P F Bolt, Cllr V M C Branson, Cllr Mrs B A Brown, Cllr C Brown, Cllr M O Davis, Cllr T Edmondston-Low, Cllr Mrs C M Gale, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr Mrs E M Holland, Cllr D Keeley, Cllr Mrs F A Kemp, Cllr S M King, Cllr R D Lancaster, Cllr B J Luker, Cllr Miss A Moloney, Cllr Mrs S Murray, Cllr Mrs A S Oakley, Cllr M Parry-Waller, Cllr M R Rhodes, Cllr H S Rogers, Cllr A G Sayer, Cllr Miss J L Sergison, Cllr Mrs E A Simpson, Cllr C P Smith, Cllr D W Smith, Cllr Ms S V Spence, Cllr A K Sullivan, Cllr R Taylor, Cllr D J Trice and Cllr Mrs C J Woodger

Apologies for absence were received from Councillors M A C Balfour, Mrs P Bates, F R D Chartres, M A Coffin, D J Cure, R W Dalton, D A S Davis, Miss J R L Elks, P J Homewood, S R J Jessel, Miss S O Shrubsole and M Taylor

### PART 1 - PUBLIC

#### **C 14/66 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

#### **C 14/67 MINUTES**

**RESOLVED:** That the Minutes of the proceedings of the meeting of the Council held on 15 July 2014 be approved as a correct record and signed by the Mayor.

#### **C 14/68 MAYOR'S ANNOUNCEMENTS**

The Mayor welcomed Mr Peter Turner of Gideons International who presented her with a copy of the Bible.

Referring to the annual cricket match against Maidstone Borough Council, the Mayor thanked all who had participated and was pleased to report that the Cup had been retained for the seventh time. Councillor Mark Rhodes then presented the Cricket Cup to the Mayor.

Members were advised that it had been a busy time since the last meeting and the Mayor reflected on a number of memorable events including several Year 6 leavers performances and school fetes, Summer Activate and Y2 Crew, the award presentations at Lords Cricket Ground and a World War 1 commemoration service at St James the Great School, East Malling. The Mayor had also attended a variety of Twinning events, the opening of new defibrillators at West Malling and Hildenborough, the Nepalese Ladies Community Party and the launch of Music @ Malling. She also referred to the opening of the Memorial Gardens in Tonbridge by HRH The Duke of Kent, the success of the Tonbridge Half Marathon and the opening of Carrotty Wood, and thanked Members who had joined her crew in the Dragon Boat Race.

The Mayor concluded with a reminder of the forthcoming Christmas Festival in Tonbridge on 23 November and the switching on of Christmas Lights in West Malling on 30 November. Her Charity Dinner would be held at Hadlow Manor on 28 February, followed by an Oast Theatre performance of "When We Are Married" on 24 March and a Buckmore Park Karting Evening on 27 April.

The Deputy Mayor then presented the Mayor with an illustrated book of the Bayeux Tapestry received from Mme Nicole Ameline, MP for the Calvados region of Normandy, during a visit to Tonbridge Castle as the guest of Sir John Stanley MP.

**C 14/69 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO 5.6**

No questions were received from members of the public pursuant to Council Procedure Rule No 5.6.

**C 14/70 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5**

No questions were received from Members pursuant to Council Procedure Rule No 5.5.

**C 14/71 LEADER'S ANNOUNCEMENTS**

The Leader referred to the forthcoming Remembrance Sunday commemorations by communities across the Borough which this year would also mark the centenary of the First World War. The Mayor and Deputy Mayor would be attending a ceremony at the newly refurbished Memorial Gardens in Tonbridge in the morning. In the afternoon the Mayor would attend the remembrance service and parade in West Malling while the Deputy Mayor and Deputy Mayoress would take part in those at Snodland, with the Chief Executive and Leader attending a service and parade at the Royal British Legion Village, Aylesford.

The Leader indicated that protecting residents and businesses from the threat of flooding was a key priority for the Council. He was pleased to report that the Kent and Medway Economic Partnership had included improvements to the Leigh Flood Storage Area in a bid to the South East LEP for submission to the government. The capacity improvements at Leigh had been costed at £11.2M and whilst there was confidence in an award of core funding, further partnership funding would be required, resulting in the bid to the Regional Growth Fund. The Leader thanked the officers for their continuing work with colleagues at the Environment Agency and Kent County Council in providing technical support and it was noted that additional financial support of £100k had been committed towards development and design work for increasing the capacity of the flood storage area.

The Borough Council had recently received the Annual Audit Letter for 2013/14 which, the Leader advised, had concluded that: "the Council continues to have a strong focus on effective financial management, with a robust medium term planning framework and well-established processes for budget monitoring. There is an effective framework to address financial pressures and to deliver planned savings." In acknowledgement of such a strong endorsement of the Council's approach to financial stewardship the Leader, on behalf of Members, particularly wished to thank the Director of Finance and Transformation and her team, as well as Management Team colleagues. It was noted that the Audit Letter would be reported formally to the General Purposes Committee on 13 November.

The Leader referred to the recent speech by the local government minister, Kris Hopkins, at the annual general meeting of the National Association of Local Councils when he had applauded those councils that were passing funds down to the town and parish councils. He was therefore pleased that for a second year running, the Council's support to local town and parish councils had included New Homes Bonus (NHB) income within the settlement. He indicated that if NHB had not been included, the reduction this year would have been 13.4% or £23,011 whereas the increase of 1.3% actually approved was worth £2,232, resulting in a net benefit to the parishes of £25,243.

Referring to the recent consideration by the Communities and Health Advisory Board, the Leader advised that 102 community groups and 15 parish councils had also received funding totalling almost £219,000 from the Community Enhancement Fund, set up in 2011 using money allocated to the Council from the government's New Homes Bonus Scheme.

The Leader reported that he and the Mayor had attended the special presentation at Lords Cricket Ground on Sunday 5 October when 15 young cricketers from Tonbridge and Malling had received a prestigious Young Leaders in Cricket Award. The Young Leaders in Cricket Programme was open to people aged between 14 and 16 and offered comprehensive training to include a Coaching Award, an introduction to

umpiring and scoring, groundsmanship and basic First Aid awareness, leading to an increase in self-esteem.

Members were advised that the Park Run in Tonbridge would celebrate its first anniversary on the following Saturday. The Leader was pleased to report that the Cabinet Member for Leisure, Youth and Arts was working with officers and Snodland Town Council to establish a Snodland park run. On the subject of Snodland, he congratulated Councillor Anne Moloney and the town council on achieving their ambition for the new facilities at the Community Centre, the official opening of which he had been delighted to attend.

**C 14/72 FEEDBACK FROM CONSULTATION ON GOOD CONDUCT - APPENDIX 1 OF HACKNEY CARRIAGE AND PRIVATE HIRE POLICY**

Item LA 14/71 referred from Licensing and Appeals Committee minutes of 16 September 2014

**RESOLVED:** That the recommendations at Minute LA 14/71 be adopted.

**C 14/73 ADOPTION OF MODEL BYLAWS FOR HACKNEY CARRIAGES**

Item LA 14/72 referred from Licensing and Appeals Committee minutes of 16 September 2014

**RESOLVED:** That the recommendations at Minute LA 14/72 be adopted.

**C 14/74 TREASURY MANAGEMENT MID YEAR REVIEW 2014/15**

Item CB 14/66 referred from Cabinet minutes of 8 October 2014

**RESOLVED:** That the recommendations at Minute CB 14/66 be adopted.

**C 14/75 COUNCIL TAX DISCOUNTS**

Item CB 14/67 referred from Cabinet minutes of 8 October 2014

**RESOLVED:** That the recommendations at Minute CB 14/67 be adopted.

**C 14/76 DIVERSION OF PART OF PUBLIC FOOTPATH MU21 AT TONBRIDGE**

Item AP1 14/42 referred from Area 1 Planning Committee minutes of 11 September 2014

**RESOLVED:** That the recommendations at Minute AP1 14/42 be adopted.

**C 14/77 CHANGE TO THE CONSTITUTION**

The report of the Monitoring Officer gave details of amendments required to the Constitution to reflect the Openness of Local Government Bodies Regulations 2014 which provided for members of the public to report and commentate on public meetings of local authorities. A copy of the Department for Communities and Local Government guide for the press and public on attending and reporting meetings was provided for Members' information.

**RESOLVED:** That the Monitoring Officer be authorised to amend the Constitution to give effect to the changes set out at paragraph 1.2.2 of the report.

**C 14/78 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 8.14 pm

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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>
Extraordinary General Purposes Committee	13 November	6 – 9	GP 14/22
Licensing and Appeals Panel	21 November	10 – 11	-
Licensing and Appeals Committee	3 December	12 – 13	-
Joint Standards Committee	19 January	14 – 16	ST 15/3
Audit Committee	26 January	17 – 21	-
Overview and Scrutiny Committee	27 January	22 – 27	OS 15/3
General Purposes Committee	2 February	28 – 32	GP 15/4
Cabinet	3 February	33 – 38	CB 15/3 – 5
Cabinet	12 February	To follow	
Area 1 Planning Committee	23 October	AP 1 – 4	-
Area 2 Planning Committee	29 October	AP 5 – 7	-
Area 3 Planning Committee	20 November	AP 8 – 10	-
Area 2 Planning Committee	10 December	AP 11 – 16	-
Area 3 Planning Committee	8 January	AP 17 – 19	-
Area 2 Planning Committee	21 January	AP 20 – 22	-

These minutes will include the following proposals from the Cabinet in relation to the Council's budget and policy framework:-

Treasury Management Strategy Statement and Annual Investment  
Strategy 2015/16 (Minute CB 15/3)  
Update of Anti-Fraud Policies (Minute CB 15/4)  
Setting the Budget for 2015/16  
Setting the Council Tax 2015/16

## TONBRIDGE & MALLING BOROUGH COUNCIL

### GENERAL PURPOSES COMMITTEE

13 NOVEMBER 2014

#### Report of Director of Central Services

#### Part 1- Public

#### For recommendation to Council

### 1 SOCIAL MEDIA POLICY

#### Summary

**The purpose of this report is to update Members on the use of social media sites by the Council and to seek approval to the terms of a policy for staff.**

#### 1.1 Introduction

1.1.1 The rapid expansion of social media in recent years has transformed the communications 'landscape' and presented the Council with opportunities to engage with our communities in new and innovative ways, and in ways which our communities expect us to communicate with them. This report outlines the various social media tools available, explains how the Council can use social media to improve communications with residents, groups, clubs, organisations and businesses and seeks approval to the terms of a social media policy for staff.

#### 1.2 Social Media

1.2.1 The focus of this report is on the increased use of social media as a means of communicating with our communities. Members will be familiar with social media sites such as Facebook and Twitter, as these sites have become increasingly popular and there is an increased demand for Council services to use the medium of social media to engage with residents and other partners. Other sites such as Flickr allow for sharing of photographs, and YouTube for posting of videos. Many Members will have their own social media accounts as a means of engaging with their constituents, inviting comment on local issues/ Council decisions and to promote their own views and policies.

1.2.2 This report does not intend to focus on particular social media sites, as there are a variety of sites that may be used to communicate in particular ways with particular communities, and these may change from time to time. Rather, the proposals are intended to increase engagement with our communities, through listening and responding to issues raised and building positive relationships. The focus of social media can be on two way communications, rather than simply about delivering messages on Council services or events.

1.2.3 It is envisaged that an increased use of social media sites could bring many benefits to the Council and our communities. These include

- Social media can broadcast information to huge numbers of people almost instantly, increasing communications reach at very little cost
- Provide opportunities to engage people in the democratic process
- Increase partnerships, connect with residents and build communities
- Potential to increase engagement with harder to reach groups e.g. 18-30 year olds.
- Digital media can deliver savings

1.2.4 The Borough Council set up a Twitter account in October 2013 to help publicise the Tonbridge Town Centre Public Exhibitions and this has been used from time to time since then (for example during the floods over Christmas and New Year, and to highlight key events/news etc). More recently a Facebook account has been established. We have identified an increased demand from the public to make use of social media sites to communicate effectively with them, and it is therefore proposed to increase our use of social media over the coming months.

1.2.5 The Tonbridge and Malling Community Safety Partnership (CSP) has recently launched its own Twitter account and this is managed independently of the Council by members of the CSP.

1.2.6 It is proposed that the Council takes a phased approach to expanding its use of social media beginning with those sites where we already have an account i.e. Twitter, Facebook and then look to include LinkedIn, Flickr/Instagram and You Tube as appropriate. It is intended that nominated Officers within the Services will be responsible for posting and responding to messages on approved social media sites, with Media and Communications retaining an overarching role in monitoring the use of such sites.

1.2.7 In order for social media to be used effectively it is important that it forms part of our wider communication and customer service strategies. It is therefore intended to revise these strategies in due course to ensure that they complement our proposed use of social media sites.

### **1.3 Social Media policy**

1.3.1 The Social Media policy (**Annex 1**) has been developed in consultation with staff. It was presented to the Joint Employee Consultative Committee in September and comments made by JECC reps/ Unison have been taken on board in arriving at the draft policy attached to this report.

1.3.2 The draft policy provides a framework for staff to follow when using social media for business purposes,

### **1.4 Financial and Value for Money Considerations**

1.4.1 The operation of the policy has negligible financial impact upon the Council.

## 1.5 Legal Implications

1.5.1 None other than identified elsewhere in this report.

## 1.6 Risk Assessment

1.6.1 The proposed increase in the use of social media sites by the Council will promote greater transparency and openness. However, as with any online activity there will be risks. The key to achieving success in our use of social media will be in balancing the risks and benefits.

1.6.2 The identified risks include

- Disclosure of confidential information;
- Damage to the reputation of the Council;
- Potential for inappropriate postings by staff

1.6.2 In order to mitigate these risks it is appropriate to implement effective policies. It will also provide reassurance for staff as to how social media sites should be used. It is considered that the draft policy at Annex 1 meets these objectives.

1.6.3 JECC and Unison representatives have been consulted on the draft policy. Their comments have been taken on board and appropriate amendments have been made to the draft policy.

## 1.7 Equality Impact Assessment

1.7.1 See 'Screening for equality impacts' table at end of report.

## 1.8 Conclusions and Recommendations

1.8.1 The Council is at the early stages of embracing the benefits of social media. However as an Authority it is important that we maximise the potential of available communication streams in order to ensure that we are engaging effectively with our communities.

1.8.2 The proposals to increase the use of social media will be taken forward in a measured and consistent way.

1.8.3 Members are therefore asked to

- (a) **endorse** the conclusions in this report; and
- (b) **RECOMMEND** to Council that the social media policy at **Annex 1** be approved

Background papers:

None

contact: Adrian Stanfield  
Director of Central Services

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

# **Tonbridge & Malling Borough Council**

## **Draft Social Media Policy**

### **1. Introduction**

- 1.1. This policy is intended to help staff make appropriate decisions about the use of social media. It outlines the standards the Council requires staff to observe when using social media, the circumstances in which we will monitor staff use of social media and the action we will take in respect of breaches of this policy.
- 1.2. This policy deals with the use of all forms of social media, including Facebook, LinkedIn, Twitter, Bebo, YouTube, Google+, Instagram and all other social networking sites, internet postings and blogs. It applies to the use of social media for business purposes as well as personal use that may affect the business of the Council in any way.
- 1.3. This policy should be read in conjunction with the Council's Information Security Policy, Data Protection Policy, Social Media Guidelines for the Public and Staff Twitter Guidelines.
- 1.4. This policy does not form part of any contract of employment and it may be amended at any time.

### **2. Who is covered by the policy?**

- 2.1. This policy covers all staff working for Tonbridge & Malling Borough Council.

### **3. Scope of the policy**

- 3.1. All staff are expected to comply with this policy at all times to protect the interests of the Council and its services, employees, councillors, partners and customers.
- 3.2. Breach of this policy may be dealt with under the Council's Disciplinary Procedure and, in serious cases, may be treated as gross misconduct leading to summary dismissal.

### **4. Responsibility for implementation of the policy**

- 4.1. The Director of Central Services has overall responsibility for the effective operation of this policy. He will monitor and review the policy and make recommendations for changes as appropriate.
- 4.2. All staff are responsible for their own compliance with this policy and for ensuring that it is consistently applied. All staff should ensure that they take the time to read and understand it. Any breach of this policy should be reported to the Director of Central Services.

### **5. Authorisation to use Council's social media sites**

- 5.1. Services that have expressed an interest in using social media have selected key staff who are authorised to post tweets/messages on the Council's social media sites. Only these authorised staff are permitted to post material on social media websites in the name of the Council and on its behalf. Any breach of this restriction will amount to gross misconduct.

### **6. What is social media?**

- 6.1. Social media is the term commonly given to web-based tools, which allow users to interact with each other in some way; for example by sharing information, opinions, knowledge, interests or

data (such as photos, videos and music) online. As the name implies, social media involves the building of online communities or networks to promote discussion and build relationships.

- 6.2. Social media tools include social networking sites such as Facebook, Google+, Twitter, Bebo and MySpace; content-sharing websites such as Flickr (images), YouTube (videos), Instagram (images and videos); work-related networking sites such as LinkedIn; wikis (e.g. Wikipedia); blogs; message boards and many other similar online channels.

## **7. Why use social media?**

- 7.1. Tonbridge & Malling Borough Council is committed to making the best use of available technology to improve the way it does business with its customers. The rapid uptake of social media in recent years has transformed the communications 'landscape' and presents the Council with opportunities to engage with people in new and innovative ways.

## **8. Objective**

- 8.1. The Council's objective in using social media is to increase access to and awareness of its services.

## **9. Social media currently used by the Council**

- 9.1. The Council has the following corporate accounts:

Twitter - [https://twitter.com/TMBC\\_Kent](https://twitter.com/TMBC_Kent)

Facebook

Flickr

Instagram

You Tube

- 9.2. Only staff authorised to use the official accounts are allowed to post comments.

- 9.3. The accounts are usually monitored from 9am to 5pm, Monday to Friday.

- 9.4. Other social media tools may be considered from time to time by the Council. This policy will be adapted as other social media tools are introduced for Council use.

## **10. What does the Council use social media for?**

- 10.1. The Council uses social media to:

- Promote news, events, activities and services
- Communicate with people during emergency situations (e.g. flooding, severe weather)
- Communicate with people in 'real time' during key events and situations (such as elections, refuse collection in bad weather)
- Target messages to specific groups e.g. young people
- Keep the Council at the forefront of the minds of its customers
- Consult with customers on key issues
- Help shape policy development
- Share ideas with partner organisations and beyond
- Gain an insight into public opinion
- Advertise meetings
- Deal swiftly with complaints and comments
- Correct misinformation
- Promote the Council's 'Channel Shift' agenda by linking social media posts to its website and encouraging customer self-service
- Generate extra traffic to its website and encourage greater customer involvement with

- minimal effort
- Display photos and post videos to help promote events and services

## **11. Rules for staff use of social media for business purposes**

### **11.1. Those authorised to post information on behalf of the Council, must always:**

- Use the official account, so it is clear it that the message is from Tonbridge & Malling Borough Council.
- Be honest, accurate, factual and fair. If you make a mistake be prompt in admitting it and correct it.
- You are personally responsible for content you publish into social media tools – be aware that what you publish will be there for many years.
- Be polite, even when disagreeing with someone.
- Respect the audience and do not publish anything that would not be acceptable in the workplace.
- Check what is about to be disclosed is public information, accurate and not protected.
- Do not disclose information, make commitments or engage in activities on behalf of the Council unless authorised to do so.
- Respect intellectual property rights and copyright and make sure you have the right permissions to use images/music/videos.
- Reply to comments as quickly as possible, but take time to consider the response as you would with a letter or email.
- Never contribute to a discussion if you are angry or upset. Return to it later when you can contribute in a calm and rational manner.
- Use plain English. Where it is felt relevant, write in the first person (“I” rather than “The Council”) if it is appropriate to sound less formal and more conversational.
- Be an ambassador for the Council and do not bring it into disrepute.
- Monitor the account regularly so as to ensure timely responses.
- Assess any potential risks and ensure you have plans in place to mitigate these risks.
- Do not publish any content which may result in actions for defamation, discrimination, breaches of copyright, data protection or other claims for damages. This includes but is not limited to material of an illegal, sexual or offensive nature that may bring the Council into disrepute.
- Do not upload, post or forward content belonging to a third party unless you have their permission to do so.
- Do not post, upload, forward or post a link to chain mail, junk mail, cartoons, jokes or gossip.
- Do not use social media for party political purposes or specific campaigning purposes as the Council is not permitted to publish material which ‘in whole or part appears to affect public support for a political party’ (LGA 1986).
- Social media must not be used for the promotion of personal financial interests, commercial ventures or personal campaigns.
- It must not be used in an abusive or hateful manner. Do not upload, post, forward or post a link to any abusive, obscene, discriminatory, harassing, derogatory or defamatory content.
- If you feel even slightly uneasy about something you are about to publish, then you shouldn’t do it. If in doubt, always discuss it with your line manager first.
- It must not be used for actions that would put Council representatives in breach of the Council’s Code of Conduct or policies relating to elected members or staff.

- Where individuals from partner organisations are involved and are acting on behalf of the Council, they will also be expected to comply with the relevant Council policies.
- Staff should not, in principle, post social media messages on Council sites on behalf of other organisations, although messages can be retweeted if appropriate. There may be exceptions to this rule, which should be discussed individually with your line manager as/when they arise.
- You must only use generic @tmbc.gov.uk email addresses in corporate social media. No personal email addresses should be used.
- Avoid publishing your contact details where they can be accessed and used widely by people you did not intend to see them and never publish anyone else's contact details.
- The use of the Council's logo and other branding elements should be used where appropriate to indicate the Council's support. The logo should not be used on social media which is unrelated to or not representative of the Council's official position.
- Council representatives should ensure that any contributions they make are professional and uphold the reputation of the Council.
- Council representatives must not promote or comment on political matters or issues that may be regarded as such.
- Staff, such as fraud investigators, who use social media as part of their work must comply with relevant legislation and guidance.
- Any member of staff who feels that they have been harassed or bullied or are offended by material posted or uploaded by a colleague onto a social media website should inform the Director of Central Services immediately.

## **12. Personal use of social media sites at work**

12.1 The Council permits the incidental use of social media for personal use when at work, subject to certain conditions set out below. However, this is a privilege and not a right and we reserve the right to withdraw our permission at any time at our discretion.

12.2 The following conditions apply to personal use:

- (a) Use is occasional and reasonable
- (b) Use must not interfere with business or office commitments
- (c) Use must comply with other Council policies e.g. Equalities policy

12.3 Employees who breach the above requirements may be subject to disciplinary investigation.

12.4 Anything posted should respect copyright and be consistent with the relevant legislation and rules including Data Protection Act 1998, Privacy and Electronic Communications Regulations 2003, ASA CAP code and the Code of Recommended Practice on Local Authority Publicity.

## **13. Misuse of social media**

13.1. Staff should be aware that misuse of social media at work, or where a complaint is received by the Council citing individual misuse of social media, whether at work or not, is likely to result in an investigation as per the Council's Disciplinary Procedure. Monitoring will only be carried out to the extent permitted or as required by law and as necessary and justifiable.

13.2. We reserve the right to restrict or prevent access to certain social media at work if we consider personal use to be excessive.

- 13.3. Misuse of social media can, in certain circumstances, constitute a criminal offence or otherwise give rise to legal liability against you and/or the Council. It may cause embarrassment to the Council and its customers.
- 13.4. Employees are urged to be mindful that, uploading, forwarding or posting a link, 'liking', 'sharing' or commenting on posts or tweets of the following types of material on social media, whether in a personal or professional capacity, may form the basis of a complaint that the Council would have to investigate under the Disciplinary Procedure (note: list is not exhaustive):
- Material which is offensive, obscene, criminal, discriminatory, defamatory, derogatory or may cause embarrassment to the Council, its partner organisations, councillors or staff
  - Confidential information about the Council or any of its staff, councillors or partner organisations
  - Any other statement which is likely to create any liability (whether criminal or civil and whether for you or the Council)
  - Material in breach of copyright or other intellectual property rights, or which invades the privacy of a person
- 13.5 Following the receipt of a complaint, where evidence of misuse is found, the Council may undertake a more detailed investigation involving the examination and disclosure of monitoring records and, if necessary, such information may be handed over to the police in connection with a criminal investigation.
- 13.6 If you notice any use of social media by other members of staff in breach of this policy, please report it to the Director of Central Services.

#### **14. Social Media in your personal life**

- 14.1 The Council recognises that many employees make use of social media in a personal capacity. While they are not acting on behalf of the Council, employees should be aware that they can damage the Council if they are recognised as being one of its employees, for example if this is stated in their social media profiles.
- 14.2 So as to avoid complaints against staff made in connection with the Council's Anti-Bullying and Harassment Procedure, Whistleblowing Charter, Code of Conduct and Disciplinary Procedure, employees are advised to consider whether any communications made in a personal capacity through social media could be deemed to :
- breach confidentiality, for example by disclosing information about a colleague or member of the public;
  - be discriminatory, for example by making offensive or derogatory remarks relating to e.g. race, religion or belief, disability, gender, or, by posting, 'liking', 'sharing' or commenting on posts or tweets that could be considered discriminatory or offensive;
  - be bullying or harassment, for example by making derogatory comments about a colleague ;
  - bring the Council into disrepute by, for example, making defamatory comments, 'liking', 'sharing' or commenting on posts or tweets about another organisation with which the employee may network in the course of their job.

14.3 You should make it clear in social media postings, and in your personal profile, that you are speaking on your own behalf. Write in the first person and use a personal email address.

14.4 If you disclose your employment with the Council on your profile or in any social media postings, you must state that your views do not represent those of your employer.

14.4 Employees should be aware that use of Social Media (reported by colleagues or members of the public) that could be deemed a breach of these guidelines, may lead to disciplinary investigation under the Council's Disciplinary Procedure. Serious breaches of these guidelines, for example incidents of bullying colleagues or social media activity causing serious reputational damage to the Council, may constitute gross misconduct and lead to action in accordance with the Disciplinary Procedure up to and including dismissal.

## **15 More information**

For more information or if you want to use social media as part of your service's communications please contact Linda Moreau, Janet Saunders or Sally Seal on 01732 876008/9 or email [mediateam@tmbc.gov.uk](mailto:mediateam@tmbc.gov.uk)

**Note:** Please see pages 7 and 8 for Staff Twitter Guidelines for practical tips on how to tweet effectively on behalf of the Council.

## Tonbridge & Malling Borough Council

### Staff Twitter Guidelines - Practical tips on how to tweet effectively

#### Introduction

These Guidelines provide some useful practical tips on how and when to tweet on behalf of the Council. Only officers who have been authorised to tweet on behalf of the Council may do so. Please make sure you have read the following Council documents **before** you begin to post tweets:

- Social Media Policy
- Social Media Guidelines for the Public
- Information Security Policy
- Data Protection Policy

#### Useful tips on how to tweet

- Be accurate, honest, timely and comprehensive.
- Get to the point. You've only got 140 characters.
- Post tweets/messages in good time and respond quickly.
- Deal with one issue at a time
- Make sure you give a complete message. You may link to a web page for more information, but the main message should be in the tweet.
- Use plain language, rather than bureaucratic language or jargon.
- Use the 'active' voice e.g. 'collect your blue bag', not 'you can collect', or 'blue bags can be collected'.
- Adopt a friendly tone, use humour if appropriate and let your personality shine through! Twitter users tend to prefer a direct and genuine tone.
- Compress phone numbers as it's easier to copy/paste them or autodial.
- Use shortened links/URLs.
- Acknowledge when people are being helpful, constructive, co-operative and patient.
- Apologise if you get something wrong or when people have been disappointed or inconvenienced
- Take time to re-read and spell check your tweet to make sure it's accurate and correct.
- If you are unsure of how to reply, seek advice before responding.
- Always be professional and don't get riled. Don't let emotions cloud your judgement.
- Remember that people can't send you a direct message through Twitter unless you follow them. Therefore following people back increases the chance of people communicating with the Council.
- Don't 'spam' followers by sending too many messages out at once or they may soon stop following you! Use SocialSignIn to pre-schedule messages to be released throughout the day.

#### Hashtags

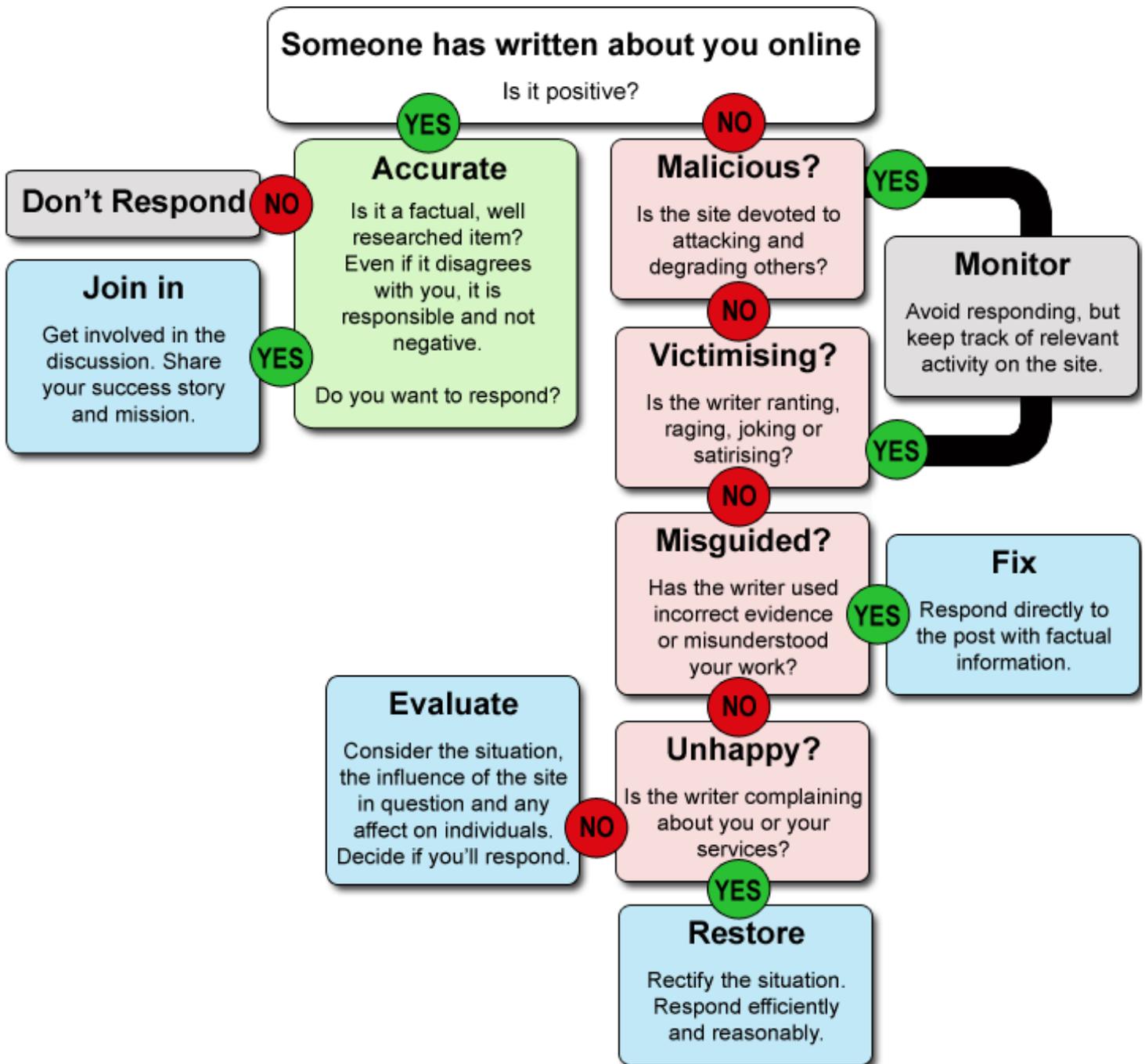
- Hashtags are optional. Users often start key words in their tweets with a '#' to categorise them for others who might wish to search for that subject. For example, if you search for #Tonbridgefloods you will find any tweets tagged with these words.

#### Retweeting (RT)

- Only RT relevant, topical or useful information to your followers.
- Do not RT too many items or followers will think you have nothing original to say!

## Quick guide to making a response

The guide below gives a good indication of when to respond to comments on social media.



## Before you respond...

Be transparent	Cite sources	Don't rush	Get the tone right	Focus
Be honest about your connection to the story.	Be clear about your sources, and include links to them.	Take time to make your response a good one	Reflect your organisation's richness and test your response on a colleague.	Focus on your most influential online activity.

Chart from LGCommunications Guide to Social Media May 2011

## TONBRIDGE & MALLING BOROUGH COUNCIL

### JOINT STANDARDS COMMITTEE

19 January 2015

#### Report of the Monitoring Officer

#### Part 1- Public

#### Matters for recommendation to Council

#### **1 CODE OF CONDUCT COMPLAINTS – REVIEW OF ARRANGEMENTS**

1.1 In accordance with the requirements of Section 28 of the Localism Act 2011, the Borough Council has adopted arrangements under which allegations can be investigated and decisions on allegations can be made. The existing arrangements were adopted by the Borough Council on 10 July 2012, and apply to all Code of Conduct complaints made against Borough or Parish Councillors.

1.1.1 The current arrangements are attached as **Annex 1**.

1.1.2 Since adoption of the arrangements a small number of issues have arisen in assessing complaints made to the Borough Council. This report therefore seeks to make some small changes to the arrangements to address the practical operation of the complaints process.

#### **1.2 Local assessment criteria – age of complaint**

1.2.1 Complaints made to me as Monitoring Officer are assessed against the legal jurisdiction test (paragraph 1.2 of Annex 2 to the arrangements) and, if applicable, the local assessment criteria (paragraph 1.4 of Annex 2).

1.2.2 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. So, for example, where the alleged misconduct happened more than 3 months ago (paragraph 1.4(f) of the local assessment test), the complaint will be rejected.

1.2.3 This has led to the rejection of one recent complaint, where the alleged misconduct (which in that case was the failure to inform the Monitoring Officer of Disclosable Pecuniary Interests) occurred at various times between July 2012 and August 2013. In each case it was clear that there was a prima facie breach of the Code, but no further action could be taken because of the operation of the 3 month rule in the local assessment criteria.

1.2.4 Whilst there are sound reasons for maintaining a time limit within the criteria, it is considered that provision should be made for exceptions to be permitted to this, should the circumstances of a particular case so warrant. It is therefore suggested that the local assessment criteria should be amended so as to allow for the

Monitoring Officer to depart from the 3 month rule where he is satisfied that exceptional circumstances exist. In determining whether such exceptional circumstances exist, it is suggested that the Monitoring Officer should have regard to the seriousness of the alleged breach and to the consequences of the delay for a fair disposal of the complaint.

### 1.3 Publicising decisions on assessments under the Code of Conduct

1.3.1 At a previous meeting of this Committee, concern was raised about the omission of personal details of both the Complainant and the Subject Member from a report on recent complaints.

1.3.2 Since that discussion there have been 2 cases of note considered by the Information Commissioner/ First Tier Tribunal (Information Rights) which provide assistance in considering whether the personal details of Complainants/ Subject Members should be published.

1.3.3 In a decision of the Information Commissioner (FSA50475954) concerning the manner in which Northumberland County Council had dealt with a request for certain information pertaining to a Code of Conduct complaint, the Commissioner concluded that the disclosure of a Subject Member's response to a complaint would be unfair, and thus breach the first data protection principle. The Information Commissioner commented -

*'In this case the complaint was assessed by the Council's Monitoring Officer, who decided not to take any further action. The Commissioner is of the view that individuals who are the subject of complaints are generally entitled to a certain degree of confidentiality in the way complaints are handled. For example, where a complaint is found not to be upheld it is less likely to be fair to disclose information relating to that complaint. The Commissioner has seen no evidence to suggest that there is an overriding public interest which demands that the information be disclosed into the public domain.'*

1.3.4 In the case of Parker v the Information Commissioner (EA.2013.0220) the First Tier Tribunal held that a Subject Member's response to a complaint was their personal data, and there was a reasonable expectation on the part of the Subject Member that this response would not be made public. The Tribunal went on to conclude that the *'limited and general public interest in the disclosure of information concerning public officials is greatly outweighed by the expectations of Councillor X and the distress likely to be caused to him in respect of the Council's handling of a request for his personal data'*.

1.3.5 The First Tier Tribunal further concluded that North Lincolnshire Council was not obliged to confirm or deny whether it held information relating to a complaint against Councillor X, as to do so would reveal personal data in that it would reveal that a complaint had been made against him. The Tribunal concluded that this would not be fair, and thus would be in breach of the first data protection principle.

1.3.6 In light of the above decisions, I do not consider that it would be lawful for the Borough Council to publish personal details of Complainants or Subject Members, unless a complaint leads to an investigation and public hearing before the Hearing Panel. It is therefore proposed to amend the arrangements (in particular paragraph 4.7 of Annex 2) to remove reference to publication of Decision Notices.

#### 1.4 **Informal resolution**

1.4.1 Elsewhere on this agenda Members will see an Information Report relating to 2 recent complaints made to me, which ultimately led to the Subject Members refusing to accept the proposed Informal Resolution.

1.4.2 The existing arrangements are silent as to what should happen in these circumstances, save for a report to be made to the Joint Standards Committee. In order to provide certainty for both complainants and Subject Members, it is considered that the arrangements could be improved by amending the provisions of paragraph 6.5 of Annex 2 so as to read as follows –

‘Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action within a reasonable timescale, the Monitoring Officer may after consultation with the Independent Person(s) and the Chairman and Vice-Chairman of the Joint Standards Committee may reconsider whether the complaint should be investigated, or an investigation concluded’.

#### 1.5 **Legal Implications**

1.5.1 The Borough Council is required to have in place arrangements under which allegations can be investigated, and decisions on allegations can be made.

#### 1.6 **Financial and Value for Money Considerations**

1.6.1 None arising from this report.

#### 1.7 **Recommendation**

1.7.1 Members are asked to **RECOMMEND** to Council that the amendments to the arrangements set out in this report are approved.

Background papers:

contact: Adrian Stanfield

Nil

Adrian Stanfield

Director of Central Services and Monitoring Officer

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## ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011

### 1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that the Borough Council has adopted for dealing with complaints that an elected or co-opted member or parish councillor has failed to comply with the Code of Conduct.

### 2. Interpretation

- 2.1 'Borough Council' means the Tonbridge and Malling Borough Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the Borough has adopted under section 27(2) of the Localism Act 2011 at Annex 1 to these Arrangements.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- (a) whose views must be sought and taken into account by the Borough Council before a decision is made on any complaint alleging a breach of the Code of Conduct by a Subject Member;
  - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior officer of the Borough Council, an officer of another authority or an external investigator.
- 2.8 'Monitoring Officer' is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parish Council' means the relevant parish/town council within the Borough of Tonbridge and Malling

- 2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11 'Subject Member' means an elected member or co-opted member of the Borough or Parish Council against whom a complaint has been made alleging a breach the Code of Conduct.

**3. Appointment of Independent Person**

- 3.1 The Council shall appoint the Independent Person (s) upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2 The Independent Person (s) shall be treated as if they were a member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

**4. Making a complaint**

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made in writing and addressed to the Monitoring Officer using the Complaint Form at Annex 2 to these Arrangements. Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), will be offered assistance.
- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 2 to these Arrangements).
- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 5 working days of receiving it. At the same time (and subject to para. 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 2 of Annex 2 to these Arrangements.

**5. Criminal conduct**

- 5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the Authority;
  - (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
  - (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest within 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;

- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 2 to these Arrangements.

**6. Anonymous complaints**

6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer in consultation with the Independent Person, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint.

**7. Role of Independent Person**

7.1 The Independent Person(s) must be consulted and have their views taken into account before the Authority makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

**8. Preliminary tests**

8.1 The Monitoring Officer will, in consultation with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, put the complaint through a number of preliminary tests, in accordance with paragraph 1 of Annex 2 to these Arrangements.

8.2 In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 1 of Annex 2 to these Arrangements may either be extended by the Monitoring Officer or the Monitoring Officer may act by consulting only with Chairman and Vice-Chairman of the Joint Standards Committee in taking the decision or action.

**9. Informal resolution**

9.1 The Monitoring Officer, in consultation with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 2 to these Arrangements.

**10. Investigation**

10.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairman of the Joint Standards Committee, decides that the complaint merits formal investigation, they will, within 10 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

10.2 The Investigating Officer will investigate the complaint in accordance with Annex 3 to these Arrangements.

**11. Hearing**

- 11.1 If the Monitoring Officer, in consultation with the Independent Person, Chairman and Vice-Chairman of the Joint Standards Committee, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 4 to these Arrangements.

**12. Sanctions**

- 12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 4 of Annex 4 to these Arrangements.

**13. Appeal**

- 13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

**14. Revision of these Arrangements**

- 14.1 The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

## Kent Code of Conduct for Members

### Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:
  - (g) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of becoming, or being re-elected or re-appointed, a Member or Co-opted Member of the Authority;
  - (h) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of you becoming aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
  - (i) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - (j) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days of disclosing it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
  - (k) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted
  - (l) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## THE CODE

### 1. Interpretation

In this Code:

**“Associated Person”** means (either in the singular or in the plural):

- (a) a family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- (e) any body in respect of which you are in a position of general control or management:
  - (i) exercising functions of a public nature; or
  - (ii) directed to charitable purposes; or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

**“Authority”** means Tonbridge and Malling Borough Council

**“Authority Function”** means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends;
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay;
- (d) an allowance, payment or indemnity given to members of the Authority;
- (e) any ceremonial honour given to members of the Authority;
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

**“Code”** means this Code of Conduct.

**“Co-opted Member”** means a person who is not an elected member of the Authority but who is a member of:

- (a) any committee or sub-committee of the Authority, or
- (b) and represents the Authority on, any joint committee or joint sub-committee of the Authority; and
- (c) who is entitled to vote on any question that falls to be decided at any Meeting.

**“Disclosable Pecuniary Interest”** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest.

**"Interests"** means Disclosable Pecuniary Interests and Other Significant Interests.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is an elected member of the Authority and includes a Co-opted Member.

**"Other Significant Interest"** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) which:

- (a) affects the financial position of yourself and/or an Associated Person; or
- (b) relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an Associated Person;

and which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

**"Register of Members' Interests"** means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**"Sensitive Interest"** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

## General obligations

3. (1) You must, when using or authorising the use by others of the resources of the Authority:

- (a) act in accordance with the Authority's reasonable requirements; and
- (b) ensure that such resources are not used improperly for political purposes (including party political purposes).

- (2) You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation

- or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
  - (d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
    - (i) you have the written consent of a person authorised to give it; or
    - (ii) you are required by law to do so; or
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is:
      - reasonable and in the public interest; and
      - made in good faith and in compliance with the reasonable requirements of the Authority;
  - (e) prevent another person from gaining access to information to which that person is entitled by law;
  - (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
  - (g) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

#### **Registering Disclosable Pecuniary Interests**

- 4. (1) You must, before the end of 28 days beginning with the day you become a Member or Co-opted Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- (2) In addition, you must, before the end of 28 days beginning with the day you become aware of any new Disclosable Pecuniary Interest or change to any interest already registered, register details of that new interest or change, by providing written notification to the Monitoring Officer.
- (3) Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the interest.

#### **Declaring Interests**

- 5. (1) Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.
- (2) Where you are present at a Meeting and have a Disclosable Pecuniary Interest or Other Significant Interest (and you are aware that you have such an interest) in any matter to be considered, or being considered, at the Meeting, you must:

- (a) disclose the Interest; and
  - (b) explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and unless you have been granted a dispensation:
  - (c) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (d) withdraw from the Meeting room in accordance with the Authority's Procedure Rules whenever it becomes apparent that the business is being considered; and
  - (e) not seek improperly to influence a decision about that business.
- (3) Where you have a Disclosable Pecuniary Interest or Other Significant Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:
- (a) notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - (b) not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - (c) not seek improperly to influence a decision about the matter.
- (4) Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
- (a) not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - (b) withdraw from the Meeting room in accordance with the Authority's Procedure Rules.

### **Sensitive Interests**

6. (1) Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that information excluded under paragraph 6(1) is no longer a Sensitive Interest, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraphs 5(2) and (3) will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an interest in the matter under discussion.

### **Gifts and Hospitality**

7. (1) You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and

hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.

- (2) Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- (3) You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- (4) The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

### **Dispensations**

- 8.(1) The General Purposes Committee or the Monitoring Officer (where authorised) may, on a written request made to the Monitoring Officer (as appointed Proper Officer for the receipt of applications for dispensation) by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the General Purposes Committee or the Monitoring Officer (where authorised) considers that:
  - (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) granting the dispensation is in the interests of persons living in the Authority's area; or
  - (d) without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
  - (e) it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

## ANNEX 1

**THE SEVEN PRINCIPLES OF PUBLIC LIFE**

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**SELFLESSNESS:** You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

**INTEGRITY:** You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

**ACCOUNTABILITY:** You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

**OPENNESS:** You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

**HONESTY:** You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

## ANNEX 2

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**“the Act”** means the Localism Act 2011

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest

**“director”** includes a member of the committee of management of an industrial and provident society

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income

**“M”** means a member of the relevant authority

**“member”** includes a co-opted member

**“relevant authority”** means the authority of which M is a member

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act (the Member’s spouse, civil partner, or somebody with whom they are living as a husband or wife, or as if they were civil partners).

**“securities”** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

Interest	Description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.  This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour

	Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:  (a) under which goods or services are to be provided or works are to be executed; and  (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge):  (a) the landlord is the relevant authority; and  (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where:  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## PROCEDURE ON RECEIPT OF A COMPLAINT

### 1. Preliminary tests

1.1 The complaint will be assessed by the Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee against the legal jurisdiction test in paragraph 1.2 and, if applicable, the local assessment criteria test in paragraph 1.4 below.

### 1.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct?
- (b) Was the person complained of a member of the Borough or Parish Council at the time of the alleged conduct?
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct?
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority?
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?
- (f) The complaint is about dissatisfaction with the Borough or Parish Council's decisions, policies and priorities, etc.

1.3 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

### 1.4 Local assessment criteria test:

If the complaint satisfies the jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is a 'repeat complaint', unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (b) The complaint is anonymous, unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant;
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant;
- (d) The complaint is malicious, trivial, politically motivated or 'tit-for-tat';
- (e) The Complainant is unreasonably persistent, malicious and/or vexatious;
- (f) The alleged misconduct happened more than 3 months ago;
- (g) The complaint is relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Members' time;
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action;
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken;

- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter;
- (k) The complaint is about a deceased person;
- (l) The complaint is about a person who is no longer a Borough or Parish Councillor or Co-opted Member.

1.5 If one or more of the local assessment criteria applies to the complaint, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons within 10 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

## **2. Notification of complaint to Subject Member**

2.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish Clerk].

2.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish Clerk] to submit initial views on the complaint within 10 working days, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below). Views received from the Subject Member [and/or Parish Clerk] after the 10 working day time limit may be taken into account at the discretion of the Monitoring Officer, providing the views are received before the Monitoring Officer issues their written decision on how the complaint will be dealt with.

## **3. Asking for additional information**

3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish Clerk] for additional information before deciding how to deal with the complaint.

## **4. What process to apply - informal resolution or investigation and/or no action?**

4.1 The Monitoring Officer may at any stage (whether without the need for an investigation or before or after the commencement or conclusion of an investigation) seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough/ Parish Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

4.2 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee may refer the complaint for investigation when:

- (a) it is serious enough, if proven, to justify the range of sanctions available to the Joint Standards Committee (see paragraph 4 of Annex 4 to these Arrangements);
- (b) the Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish Council and there is no other avenue left to deal with it short of

- investigation and, in considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4 If the complaint identifies criminal conduct or breach of other regulations by the Subject Member or any other person, the Complainant will be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. In such cases, the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and in consultation with the Independent Person will apply the local assessment criteria test in paragraph 1.4 above.
- 4.5 The Monitoring Officer in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, will take no action on the complaint when one or more of the following apply:
- (a) on-going criminal proceedings or a police investigation into the Subject Member's conduct or where the complaint is suspended in accordance with paragraph 4.4 above;
  - (b) investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings;
  - (c) the investigation might prejudice another investigation or court proceedings;
  - (d) on-going investigation by another prosecuting or regulatory authority;
  - (e) genuine long term (3 months or more) unavailability of a key party;
  - (f) serious illness of a key party.
- 4.6 Within 20 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 2):
- (a) not to refer the complaint for investigation; or
  - (b) to refer the complaint for investigation; or
  - (c) to apply the informal resolution process either before or after an investigation; or
  - (d) following investigation, to refer the complaint to the [Hearing Panel]; or
  - (e) to take no action and close the matter; or
  - (f) to refer the complaint to the relevant political group leader for action.

4.7 The decision notice will be published on the Borough Council's website. There is no right of appeal against the Monitoring Officer's decision. However, in the event that the Complainant submits additional relevant information, the Monitoring Officer will consider and decide if the matter warrants further consideration under these Arrangements, in which case it shall be treated as a fresh complaint.

## **5. Confidentiality**

5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer in consultation with the Independent Person when they initially assess the complaint (see paragraph 1 above).

5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity if they are satisfied that the Complainant has reasonable grounds for believing that they or any other person (e.g. a witness):

- (a) is either vulnerable or at risk of threat, harm or reprisal;
- (b) may suffer intimidation or be victimised or harassed;
- (c) works closely with the Subject Member and are afraid of the consequences, e.g. fear of losing their job;
- (d) suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- (e) may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish Council.

OR where early disclosure of the complaint:

- (a) may lead to evidence being compromised or destroyed; or
- (b) may impede or prejudice the investigation; or
- (c) would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) to facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;
- (b) to raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;

(c) justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large;

(d) bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 The Monitoring Officer, in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, will balance whether the public interest in accepting the complaint outweighs the Complainant's wish to have their identity (or that of another person) withheld from the Subject Member. If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons, within 15 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

## **6. Informal resolution**

6.1 The Monitoring Officer may after consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation or before or after an investigation has been commenced or concluded. The Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough/ Parish Council procedures; or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the Borough or Parish Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough/ Parish Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal censure; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough/ Parish Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or
- (i) The complaint consists of allegations about how formal meetings are conducted; or
- (j) The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole Borough/ Parish Council where it may be useful to address systemic behaviour:

- (a) training;
- (b) conciliation/mediation;
- (c) mentoring;
- (d) apology;
- (e) instituting changes to the Borough or Parish Council's procedures;
- (f) conflict management;
- (g) development of the Borough or Parish Council's protocols;
- (h) other remedial action by the Borough or Parish Council;
- (i) other steps (other than investigation) if it appears appropriate to the Monitoring Officer in consultation with the Independent Person.

6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer will report the matter to the Joint Standards Committee [and, if applicable, the Parish Council] for information, but will take no further action.

6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Joint Standards Committee.

**EXAMPLE TEMPLATE – COMPLAINT FORM**

**EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g. REFERRAL FOR INVESTIGATION**

*Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature, or may be personal information.*

**Complaint No:**

**Complaint**

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

**Complaint summary**

[Summarise complaint in numbered paragraphs]

**Consultation with Independent Person(s)**

[Summarise the Independent Person(s) views in numbered paragraphs]

**Consultation with the Chairman & Vice-Chairman of the Joint Standards Committee**

[Summarise their views in numbered paragraphs]

**Decision**

Having consulted and taken into account the views of the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee, the Monitoring Officer decided to refer the complaint for investigation.

**Potential breaches of the Code of Conduct identified**

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

**Notification of decision**

This decision notice is sent to the:

- Complainant

- Member against whom the complaint was made
- [Clerk to the relevant Parish or Town Council]
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both [Borough] [City] [District] and County level*)

**What happens now**

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

**Appeal**

There is no right of appeal against the Monitoring Officer's decision.

**Additional Help**

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

**Signed:**

**Date**

**Print name:**

Monitoring Officer of the Tonbridge and Malling Borough Council

Gibson Building

Gibson Drive

Kings Hill

West Malling

Kent ME19 4LZ

## **2. PROCEDURE FOR INVESTIGATING THE COMPLAINT**

### **1. Preliminaries**

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under the Data Protection Act 1998, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for fact finding purposes only.
- 1.4 Witnesses will be identified at the investigation stage and their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 Within 10 working days of being appointed, the Investigating Officer will notify the Subject Member and the Complainant of their appointment and:
  - (a) provide details of the complaint to the Subject Member;
  - (b) detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation;
  - (c) detail the sections of the Code of Conduct that appear to be relevant to the complaint;
  - (d) request contact details of any potential witnesses;
  - (e) require that confidentiality is maintained and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8 The Investigating Officer may terminate their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the [Monitoring Officer] [Hearing Panel].

### **2. The draft report**

- 2.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT') to the Monitoring Officer for review.
- 2.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'CONFIDENTIAL' and will detail:

- (a) the relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- (b) a summary of the complaint;
- (c) the Subject Member's response to the complaint;
- (d) relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- (e) a list of any documents relevant to the matter;
- (f) a list of those persons/organisations who have been interviewed;
- (g) a statement of the Investigating Officer's draft findings of fact and reasons;
- (h) the Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- (i) that the Investigating Officer will present a final report once they have considered any comments received on the draft.

2.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL'.

### **3. Consideration of Investigating Officer's final report**

3.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person(s) and Chairman and Vice-Chairman of the Joint Standards Committee.

3.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

3.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person(s), Chairman and Vice-Chairman of the Joint Standards Committee concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) take no action or
- (b) seek informal resolution or
- (c) refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

## HEARING PANEL PROCEDURE

### 1. Rules of procedure

#### 1.1 The Hearing Panel shall be comprised as follows –

(a) Where the Subject Member is a Borough Councillor, the Panel shall be comprised of five Borough Members and one Parish/ Town Member drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

(b) Where the Subject Member is a Town or Parish Councillor, the Panel shall be comprised of three Borough Members and three Parish/ Town Members drawn from the Joint Standards Committee, one of whom shall be elected as Chairman.

Where practicable, members of the Hearing Panel shall be drawn from a different planning area of the Borough than the member against whom the complaint has been made.

#### 1.2 The quorum for a meeting of the Hearing Panel is three.

#### 1.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may submit their views on the complaint to the Hearing Panel in writing instead.

#### 1.4 The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied where it is necessary to exclude the public and press from meetings of the Hearing Panel where it is likely that confidential or exempt information will be disclosed.

#### 1.5 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.

#### 1.6 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.<sup>1</sup>

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<sup>1</sup> Janik v Standards Board for England & Adjudication Panel for England (2007)

**2. Right to be accompanied by a representative**

The Subject Member may choose to be accompanied and/or represented at the Hearing Panel by a fellow councillor, friend or colleague.

**3. The conduct of the hearing**

3.1 Subject to paragraph 3.2 below, the order of business will be as follows:

- (a) elect a Chairman;
- (b) apologies for absence;
- (c) declarations of interests;
- (d) in the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above);
- (e) introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative;
- (f) to receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
- (g) to determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

3.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

3.3 The Hearing Panel may adjourn the hearing at any time.

**3.4 Presentation of the complaint**

- (a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted;
- (b) The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer;
- (c) The Hearing Panel may question the Investigating Officer upon the content of his/her report and any witnesses called by the Investigating Officer.

**3.5 Presentation of the Subject Member's case**

- (a) The Subject Member or their representative presents their case and calls their witnesses;
- (b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member;
- (c) The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

**3.6 Summing up**

- (a) The Investigating Officer sums up the complaint;
- (b) The Subject Member or their representative sums up their case.

**3.7 Views/Submissions of the Independent Person**

The Chairman will invite the Independent Person to express their view on whether they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct or no breach as the case may be.

### **3.8 Deliberations of the Hearing Panel**

#### **Deliberation in private**

- (a) The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and from whom.

#### **Announcing decision on facts found**

- 3.9 (a) The Hearing Panel will reconvene the hearing in public and the Chairman will announce that on the facts found, the Panel considers that there has been a breach of the Code of Conduct, or no breach, as the case may be.
- (b) Where the Hearing Panel finds that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether any sanctions (in accordance with paragraph 4 of this Annex 4) should be applied and what form they should take.
- (c) Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.
- (d) If evidence presented to the Hearing Panel highlights other potential breaches of the Borough or Parish Council's Code of Conduct, then the Chairman will outline the Hearing Panel's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.

#### **Formal Announcement of Decision**

- 3.10 (a) Where the complaint has a number of aspects, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
- (b) The Hearing Panel will make its decision on the balance of probability, based on the evidence before it during the hearing.
- (c) Having taken into account the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:

- (i) the Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision;
- (ii) the sanctions (if any) to be applied;
- (iii) the recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer;
- (iv) that there is no right of appeal against the Panel's decision and/or recommendations.

**4. Range of possible sanctions**

4.1 Subject to paragraph 4.4 below, where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/ recommended:

- (a) Recommending to the Borough/ Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
- (b) Recommending to the Subject Member's Group Leader or Parish Council, or in the case of a ungrouped Subject Member, to the Borough/ Parish Council that they be removed from committees or sub-committees of the Council;
- (c) Recommending to the Leader of the Borough Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;
- (d) Instructing the Monitoring Officer [or recommendation to the Parish Council] to arrange training for the Subject Member;
- (e) Recommending to the Borough/ Parish Council that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the Borough/ Parish Council;
- (f) Recommending to the Borough/ Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
- (g) Recommending to the Borough/ Parish Council the exclusion of the Subject Member from the Borough/ Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending Borough/ Parish Council committee and sub- committee meetings;
- (h) Reporting the Panel's findings to the Borough/ Parish Council for information;
- (i) Instructing the Monitoring Officer to apply the informal resolution process;
- (j) Sending a formal letter to the Subject Member;
- (k) Recommending to the Borough/ Parish Council to issue a press release or other form of publicity;
- (l) Publishing its findings in respect of the Subject Member's conduct in such manner as the Panel considers appropriate.

4.2 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

4.3 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

4.4 When deciding whether to apply one or more sanctions referred to in paragraph 4.1 above, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

- (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough/ Parish Council's Code of Conduct?
- (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- (c) Has there been a breach of trust?
- (d) Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- (e) What was the result/impact of failing to follow the Borough/ Parish Council's Code of Conduct?
- (f) How serious was the incident?
- (g) Does the Subject Member accept that they were at fault?
- (h) Did the Subject Member apologise to the relevant persons?
- (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- (j) Has the Subject Member previously breached of the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?

**5. Publication and notification of the [Hearing Panel's] decision and recommendations**

5.1 Within 10 working days of the Hearing Panel's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Hearing Panel's decision and recommendations and reasons for the decision and recommendations on the Borough Council's website.

5.2 Within 10 working days of the announcement of the Hearing Panel's decision, the Monitoring Officer will provide a full written decision and the reasons for the decision, including any recommendations, in the format of the Decision Notice template below to:

- (a) the Subject Member;
- (b) the Complainant;
- (c) the Clerk to the Parish Council;
- (d) Kent County Council's Standards Committee (*applicable only where the subject Member is serving at both Borough and County level*);

5.3 The Monitoring Officer will report the Hearing Panel's decision and recommendations to the next ordinary meeting of the Joint Standards Committee for information.

**TEMPLATE - DECISION NOTICE (of Hearing Panel)**

**Complaint No: xxxx**

On [insert date], the Hearing Panel of the Tonbridge and Malling Borough Council considered a report of an investigation into the alleged conduct of Councillor [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

**Complaint summary**

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

**Consultation with Independent Person**

[Summarise the Independent Person's views in numbered paragraphs]

**Findings**

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

**Sanctions applied**

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

**Appeal**

There is no right of appeal against the Hearing Panel's decision.

**Notification of decision**

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- [Clerk to the xxxx Parish/Town Council];
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both [Borough] [City] [District] and County level]*

**Additional help**

## ANNEX 1

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address]. We welcome calls via [Typetalk](#)

**Signed:**

**Date**

**Print name:**

Chairman of the Hearing Panel

Tonbridge and Malling Borough Council

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### OVERVIEW AND SCRUTINY COMMITTEE

27 January 2015

#### Report of the Director of the Chief Executive

#### Part 1- Public

#### Matters for Recommendation to Council

#### 1 OVERVIEW AND SCRUTINY COMMITTEE – ANNUAL REPORT

To receive and endorse a report on the business undertaken by the Committee over the past year.

#### 1.1 Background

1.1.1 To enhance governance arrangements, as suggested by the Audit Committee in 2013, a report is produced annually to improve transparency of the Overview and Scrutiny function.

1.1.2 This report therefore sets out a draft Annual Report for endorsement by the Committee and referral to the Council. The draft report is attached as Annex 1.

#### 1.2 Legal Implications

1.2.1 None

#### 1.3 Financial and Value for Money Considerations

1.3.1 As addressed via individual reviews.

#### 1.4 Risk Assessment

1.4.1 N/A

#### 1.5 Equality Impact Assessment

1.5.1 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.

#### 1.6 Recommendations

1.6.1 That the draft Overview and Scrutiny Annual Report, as attached as Annex 1, **BE ENDORSED**.

Background papers:

contact: Gill Fox

Nil

Julie Beilby  
Chief Executive

**Annual Report  
of the  
Overview and Scrutiny Committee**

## **1. Background**

- 1.1 This report sets out a summary of the activities and work undertaken by the Overview and Scrutiny Committee over the 2014 calendar year. Full details of all the reviews undertaken and other matters considered by the Committee over this period are set out in the relevant agenda papers and minutes.
- 1.2 During 2014, two programmed meetings of the Committee took place on 28 January and 11 June. In addition to these formal meetings, a number of informal scrutiny review group meetings were arranged under the chairmanship of the Committee's two Vice-Chairman. These met outside the normal meeting calendar to look at specific issues in more detail prior to the matter being dealt with by the full committee. This form of working has enabled the Committee to undertake a wider range of review work over the year and has enabled Members to investigate relevant issues in greater detail. It is expected that this style of working will be carried forward into 2015.
- 1.3 Set out below are details of each of the Committee's main meetings and a brief description of the work undertaken.

## **2. Overview and Scrutiny Committee Meeting – 28 January 2014**

- 2.1 The agenda for this meeting included the budgetary matters that required review and endorsement prior to their formal consideration by the Cabinet. The following matters were discussed:
- Revenue Estimates 2014/15
  - Capital Plan Review 2013/14
- 2.2 Two further reports were submitted in relation to the work of the two review groups, looking into Concessionary Fees and Charges and the review of Disabled Facilities Grant Contributions and Housing Assistance Funding.
- 2.3 The review group looking at Fees and Charges concluded that all concessions operated by the Council should, in future, be linked to recipients of the Council Tax Reduction Scheme. It recommended that the following be approved:
1. The current 100% concession for pest control services should be retained;
  2. The current 100% concession for bulky goods collection should be retained and additional marketing of the service and of the Saturday Household Waste Service should be undertaken;
  3. A review of the discounts for leisure services/activities by undertaken by the Leisure and Arts Advisory Board to simplify the rates which apply;
  4. The criteria which govern access to the Council's concessions be made consistent across services and in the future be based primarily on those eligible for the Council Tax Reduction Scheme;

5. To reflect the finding of the equalities impact assessment disability/incapacity be added to the qualifying criteria for all concessions, should a single card be introduced;
  6. Eligibility for access to concessions should be assessed and reviewed on an annual basis only in order to streamline administrations of the concessions scheme;
  7. The introduction of a single discount card be supported in principle but should be subject to further investigation taking into account examples of best practice; and
  8. Additional marketing and promotion of the discount card scheme should be considered to encourage greater take up by those eligible.
- 2.4 The review of Disabled Facilities Grant contributions and Housing Assistance Funding, recommended:
1. The existing level of capital plan funding for Disabled Facilities Grants should be retained for the time being but reviewed again when changes to the funding regime take place in 2015; and
  2. The capital plan budget for discretionary housing assistance be set at £90,000 and part funded by way of grant repayments as detailed in paragraph 1.6 of the report.
- 2.5 All of the above recommendations were subsequently considered and endorsed by the Cabinet.
- 2.6 A report setting out the future review work programme was also presented and it was resolved that review groups would be established to investigate Memberships / subscriptions and Postage/ courier costs.
- 3. Overview and Scrutiny Committee Meeting – 11 June 2014**
- 3.1 This meeting received the Corporate Performance Plan – Review and Update report. It was noted that the Corporate Performance Plan was a principal means of driving performance improvement and value for money and it was recommended that the Corporate Performance Plan be adopted.
- 3.2 In accordance with the Borough Council's constitution a report of the Chief Executive sought retrospective approval to the addition of a new Capital Plan scheme to purchase hardware for the implementation of Individual Electoral Registration (IER), it was recommended that this be endorsed and the grant funded scheme be added to the Capital Plan.
- 3.3 A future review programme was also endorsed at this meeting, it was resolved that Review Groups would be established to investigate the Capital Plan Renewals Provisions and another to review the Empty Homes process.
- 3.4 The recommendations from the review of Postage and Courier Costs were also brought to this meeting, with the following recommendations endorsed:

- (1) the Borough Council use Royal Mail accredited accounts for the majority of its postal needs, pursue all possible options for savings with Royal Mail and the use of the franking machine be discontinued;
- (2) the guaranteed early delivery postal service be discontinued;
- (3) any cheaper and appropriate alternatives to the use of Royal Mail be investigated in the longer term;
- (4) that the current courier service be discontinued; and
- (5) that, in the interim, a reduced courier service be introduced using existing caretaker staff until all such information is able to be delivered via electronic means, in line with the business transformation agenda

3.5 By the end of the calendar year, review groups for Empty Homes and the Capital Renewals Provisions had met and recommendations for each were due to be considered at the Overview and Scrutiny Committee held on 27 January 2015.

## TONBRIDGE & MALLING BOROUGH COUNCIL

### GENERAL PURPOSES COMMITTEE

02 February 2015

#### Report of the Director of Central Services

#### Part 1- Public

#### Matters for Recommendation to Council

#### 1 LOCALISM ACT – PAY POLICY

Section 38(1) of the Localism Act 2011 requires English and Welsh local authorities to review their pay policy statement for each financial year. This report summarises the requirements of the Act and presents an updated Pay Policy Statement for 2015/16 in Annex 1. Members will note that as there have not been any changes in the Council's remuneration policy, the substantive content of the updated Pay Policy Statement in Annex 1 is identical to the Council's first Pay Policy Statement (adopted by the Council on 16 February 2012).

#### 1.1 Contents of the Pay Policy

- 1.1.1 As members may recall, the Act requires the pay policy statement to include the level and elements of remuneration for each chief officer, a definition of the "lowest paid employees" and their remuneration, the policy on the relationship between the remuneration of its chief officers and other officers, the policy on pay on recruitment, increases in pay, use of performance related pay and bonuses, termination payments and transparency.
- 1.1.2 The title "chief officer" includes both statutory and non-statutory chief officers and their deputies. Therefore, within the Pay Policy Statement set out in Annex 1, the information about the remuneration of chief officers pertains to the current Establishment and therefore includes the posts of the Chief Executive, the Council's four Service Directors, the Head of Planning, the Chief Financial Services Officer and the Chief Environmental Health Officer, as well as the senior officers that are directly accountable to these "chief officers".
- 1.1.3 The Act's definition of remuneration includes pay, charges, fees, allowances, benefits in kind, enhancement of pension entitlements and termination payments. All of these elements have been covered in the pay policy statement attached in Annex 1.

- 1.1.4 In order to provide a holistic and transparent context for the remuneration of chief officers and their deputies, the pay policy in Annex 1 provides an overview of the pay elements for all Council employees.

## **1.2 Legal Implications**

- 1.2.1 The policy set out in Annex 1 contains all of the elements of a statutory pay policy as stipulated in section 38 (1) of the Localism Act 2011.
- 1.2.2 The attached pay policy is also compliant with Regulation 7 of the Local Government (Early Termination of Employment)(Discretionary Compensation) (England & Wales) Regulations 2006 and the Local Government Pension Scheme (Administration) Regulations 2008 & 2014.
- 1.2.3 The definition of the terms “chief officer” and “deputy chief officer” is in accordance with section 2 of the Local Government and Housing Act 1989.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 As set out in Section A of the attached Pay Policy, the Council’s approach to setting a pay multiple is broadly calculated on a base salary multiple of 8 being the gap between the remuneration of the lowest and the most highly paid employees and is enshrined within the Council’s locally determined job benchmarking evaluation scheme. Such an approach places an emphasis on cash reward as the corner stone of the Council’s pay policy, and ensures that pay is based on job requirements.

## **1.4 Risk Assessment**

- 1.4.1 Given current media scrutiny of public sector remuneration it would be imprudent for the Council not to comply with the Localism Act’s requirement to have reviewed the Pay Policy Statement by 31 March 2015..

## **1.5 Equality Impact Assessment**

- 1.5.1 The recommendation to adopt the Pay Policy Statement in Annex 1 has a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## **1.6 Policy Considerations**

- 1.6.1 HR Policy

## **1.7 Recommendations**

- 1.7.1 It is recommended that this committee commends the pay policy in Annex 1 to this report for adoption at the Council meeting on 17 February 2015.

Background papers:

contact: Delia Gordon

Nil

Adrian Stanfield  
Director of Central Services

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# Annex 1

## Pay Policy Statement 2015/16

### Introduction

When determining remuneration levels the Council is mindful of the requirement to balance the needs of managing scarce public resources with the need to secure and retain high-quality employees. The Council aligns its reward strategy with organisational needs by an emphasis on cash rewards, and ensuring that pay is determined by job requirements. The Council aims to operate a consistent and equitable organisation-wide reward system by placing the responsibility for remuneration decisions with a committee of elected councillors, the General Purposes Committee, and the responsibility for administering the pay policy within the Council's Personnel team.

Section 38 (1) of the Localism Act 2011 requires the council to prepare an annual pay policy statement for 2015/16. The Act specifies that the following must be included in the pay policy statement:

- the level and elements of remuneration for each chief officer
- the policy on the remuneration of chief officers on recruitment
- increases and additions to their remuneration including performance related pay, bonuses, charges, fees, allowances, benefits in kind and termination payments
- a definition of the "lowest paid employees" and the policy on the remuneration of this group
- the policy on the relationship between the remuneration of its chief officers and other officers
- policy on re-employing someone who has been made redundant.

This statement will be published on the Council's website.

### Section 1 – Remuneration of statutory and non-statutory Chief Officers and Deputy Chief Officers

The term "chief officer" within The Localism Act includes both statutory and non-statutory chief officers, and their deputies. The actual remuneration for these roles is available on the Council's website

<http://www.tmbc.gov.uk/services/council-and-democracy/councillors,-democracy-and-elections/transparency-senior-salaries>

The salary scales for the statutory and non-statutory Chief Officers and Deputy Chief Officers in post in March 2015 is set out below.

No of chief officers	Grade	% of M2 benchmark	Pay Point Range
13	M6	56.0%	141- 144
9	M5	61.0%	147 - 150

3	M4	70.0%	151- 154
4	M2a	97.5%	181- 184
1	M1	125.0%	191- 194

### **Fee for acting as the Returning Officer**

Tonbridge & Malling Borough Council is required to appoint a Returning Officer by virtue of section 35 of the Representation of the People Act 1983. In Tonbridge & Malling, the Chief Executive has been appointed as the Returning Officer. This is a personal appointment, separate from their other duties. In this capacity they are the Returning Officer for UK Parliamentary elections and elections to the Borough Council and to Parish Councils within this Borough. The Returning Officer fee is payable for the substantial additional duties undertaken, and leadership required of the Returning Officer in planning, delivering and undertaking the elections, and recognises the personal nature and personal responsibility of the role of the Returning Officer.

For Borough and Parish Council elections, the Returning Officer fee is calculated in accordance with an agreed Kent Scale of Fees. For National and European elections the fee rate is set by central government. Parliamentary, Borough and Parish & Town Council elections are scheduled for May 2015.

### **Section 2 – Remuneration of the lowest paid employees**

In compliance with Section 38 of the Localism Act, for the purposes of this statement the “lowest paid employee” has been defined as those who are engaged as a Scale 1 clerical worker, i.e. those occupying the most technically unskilled full time positions within the Council. Individuals employed on this basis have made the transition from an apprenticeship to an “entry level” clerical post. In 2015/16 it is anticipated that there will be 1 such post with an annual salary in the region of £13,500.

### **Section 3 – Decision on pay**

The pay of all council employees (including chief officers) is determined by the evaluated grade of the post. The pay band for most jobs within the council (including chief officers) is very narrow, based on 3 or 4 incremental points. Progression through the pay band is based on length of service, subject to the achievement of expected performance standards, and thus recognises development in a role over time based on the accumulation of experience and knowledge. It is anticipated that during 2014/15 the total number of permanent and fixed term contract staff on the Council’s payroll will be approximately 285 in any one month.

The Council has not adopted the national local government job evaluation or grading schemes but has developed a locally negotiated framework that more closely reflects its own particular requirements. Within this framework there are two remuneration “families”. The first has been developed for the Council’s professional and senior managerial cohorts, and includes chief officers. The second is for supervisory, technical and clerical staff.

All staff (including chief officers) are appointed to the organisation at the bottom of the grade, unless there are exceptional circumstances based on business need.

### **Annual Pay Award**

The salary of all council employees (including chief officers) may increase annually by an annual pay award which is locally determined taking into consideration:

- “caps” on public sector pay rates set by the Government
- the council’s ability to pay
- inflation levels
- the “going rate” of pay awards in neighbouring authorities and nationally
- recruitment and retention levels.

### **Section 4 – Pay structure and pay relationships.**

The Code of Recommended Practice for Local Authorities on Data Transparency September 2011 requires that there is a process established to monitor the rate of growth of senior earnings compared to all other employees in the organisation. During 2015/16 there will be a multiple of approximately 8.30 between the base level salary of the Chief Executive and a scale 1 clerical officer, reflecting the differences in skill sets, complexity and span of control from the lowest to the highest paid employees of the Council.

The total salary for the post of Chief Executive is in the region of £109,600. The median full time equivalent salary for all other employees in Tonbridge & Malling Borough Council is in the region of £25,000, the mean full time equivalent salary is in the region of £29,500. The pay multiple is therefore approximately 4.35 against the median and just over 3.71 against the mean.

The Council’s bespoke grading structure for employees with professional and specialised high level skill sets is entitled the “M” grade framework. All those referred to as chief officers within this pay policy statement fall within the “M grade” framework.

A feature of the M grade framework is that the remuneration levels for all M grade posts (including those of chief officers), are fixed as a percentage of a notional benchmark grade M2. Therefore, the grading structure specifies the pay multiples attached to each grade as a percentage of the lowest

incremental point of a notional benchmark M2. Posts are positioned within the M grade framework on the basis of the required specialist knowledge, professional skills, depth of professional and managerial judgement, and managerial span of control. Broadly speaking the range of capabilities required for junior M grade posts (M9 – M7 inclusive) equate to professional and/or managerial capability equivalent to Level 6 of the National Qualifications Framework (NQF). Those occupying senior managerial posts graded M6 to M2 are required to possess **both** professional and managerial skill sets equivalent to Level 7 of the NQF. All four director level chief officer posts are graded as M2a. The professional and managerial capabilities **and** span of control required at director level broadly equate to level 8 of the NQF. A Level 8 degree of professional and managerial expertise is also required for the post of the Chief Executive. This, alongside the extensive span of control intrinsic to the role of paid head of service for the entire Council workforce, merits the grade of M1.

### **Supervisory, technical and clerical grades**

The council has developed a bespoke grading structure for its supervisory, technical and clerical staff that ranges from the grade of senior officer to clerical scale 1. Broadly speaking the managerial, professional and skill set required for posts graded Senior Officer equate to Level 5 of the NQF, posts graded scale 5-6 equate to Level 4 of the NQF, posts graded scale 3-4 to Level 3 of the NQF, posts graded scale 1-2 require a Level 2 skill set and those at entry level scale 1 at Level 1 of the NQF.

The Council considers that the relationship between the base salaries of its highest and lowest paid employees, as well as the relationship between the highest paid and the mean and medial salaries of the entire workforce, represents an appropriate, fair and equitable internal pay relationship.

## **Section 5 – Policies common to all employees**

The following elements of remuneration are determined by corporate policies or arrangements which apply to all permanent employees of the Council (including its chief officers and deputy chief officers), regardless of their pay level, status or grading. Full details on any of the policies listed below can be provided on request.

The Council aims to have a streamlined and transparent pay structure and therefore it does not pay additional one off bonuses, market premiums, location allowances, subsidy towards child care costs or special awards for any staff (including chief officers). Pension contributions for all employees opting to join the Local Government Pension Scheme are nationally determined.

### **Payments on termination of employment**

According to the Local Government (Early Termination of Employment)(Discretionary Compensation )(England and Wales) Regulations 2006 the Council has the power to make discretionary payments on early termination of employment. The Council has determined that it will calculate payments made to any eligible employee (including chief officers) who are made redundant or who depart on the grounds of the efficiency of the service by using the Government's statutory redundancy payment calculator formula and the employee's actual weekly pay. For those who depart on the grounds of redundancy or efficiency of the service, or who chose to retire "early", the Council does not increase the employee's total pension scheme membership or award additional pension. This response to the Local Government Pension Scheme (Administration) Regulations 2008 applies to all employees, including chief and deputy chief officers.

The Council's policy is that it does not re-employ anyone (including chief or deputy chief officers) who has left with a severance or redundancy payment, nor does it re-engage them on a self-employed basis with a contract for services.

### **Car allowances**

For those posts where it is deemed that there is an essential requirement for the post holder to use a car to perform their job, and they are expected to travel in excess of 2,500 miles per annum in the course of their duties, the post holder either receives a lump sum allowance to contribute towards the associated running costs of the car in accordance with the rates previously set by the National Joint Council or they are allocated a lease car, or they receive a cash equivalent payment as an alternative to a lease car. Those who drive leased cars are required to make their leased car available for the use of all Council employees possessing a suitable driving licence, if so required, (the Council has the appropriate insurance cover).

### **Telephone allowances**

Those employees who are deemed to be essential users of mobile telephones are either supplied with a mobile telephone for council related activities, or receive a mobile telephone allowance

### **Professional fees**

Annual professional subscription fees to one relevant professional body are reimbursed to those employees where it is deemed an essential requirement for the post holder to belong to a professional institute.

### **Reimbursement of removal/relocation costs on appointment and mortgage subsidy scheme**

The Council's relocation and mortgage subsidy schemes provide financial assistance (within pre-defined limits) to employees who re-locate from outside

a reasonable travel area to the Borough to take up an appointment with the Council.

### **Subsistence Allowance**

The Council reimburses expenditure on meals, accommodation, and any other expenses necessarily (within pre-defined limits) incurred by employees who have to be away from home on Council business.

### **Standby and call out allowances**

Any employee who is required to undertake standby and call-out duties will be paid at the appropriate rate in accordance with the negotiated policy and payment rate for their role.

## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

03 February 2015

#### Report of the Director of Finance & Transformation

#### Part 1- Public

#### Matters for Recommendation to Council

#### **1 TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY FOR 2015/16**

**1.1 The report provides details of investments undertaken and returns achieved in the first nine months of the current financial year and provides an introduction to the Annual Investment Strategy for 2015/16. Members are invited to recommend adoption of the Strategy to full Council.**

#### **1.2 Introduction**

1.2.1 The Local Government Act 2003 requires the Council to 'have regard to the Prudential Code and to set Prudential Indicators for the next three years to ensure that the Council's capital investment plans are affordable, prudent and sustainable'.

1.2.2 The Act also requires the Council to set out its Treasury Management Strategy Statement for borrowing and to prepare an Annual Investment Strategy. The latter sets out the Council's policies for managing its investments and for giving priority to the security and liquidity of those investments.

1.2.3 The Strategies are set out in a single document at **[Annex 3]** to this report.

1.2.4 The portfolio of the Audit Committee includes the review of treasury management activities. Accordingly, that Committee was asked to review the matters covered by this report and **[Annex 3]** on 26 January 2015. Due to timing issues it will be necessary to verbally report upon any recommendations and observations made by the Audit Committee.

1.2.5 The Strategy is a complex technical document and is a specialist area of work, I should be grateful if Members could raise any queries with the author of this report (Michael Withey ext. 6103) in advance of the meeting as Michael will not be present on 3 February.

#### **1.3 Treasury Management Update**

1.3.1 In accordance with the CIPFA Treasury Management Code of Practice, it is the Council's priority to ensure security of capital and liquidity, and to obtain an

appropriate level of return which is consistent with the Council's risk appetite. We continue to find ourselves in a very difficult investment market. Yields are low, in-line with the 0.5% Bank Rate and have been suppressed further by the Bank of England's 'Funding for Lending' scheme. As a consequence, investment returns are expected to remain low relative to pre 2008 financial crisis levels throughout the remainder of this financial year and the next.

1.3.2 Cash flow funds are available on a temporary basis and their amount varies from month to month and during the course of each month dependent on the timing of receipts (collection of business rates, council tax, grants and other sources of income) and payments (to government, precepting authorities, housing benefit recipients, staff and suppliers). The authority holds £13.4m of core cash balances for investment purposes. These funds which comprise our revenue and capital reserves are for the most part available to invest for more than one year.

1.3.3 At the end of December 2014 funds invested and interest earned is set out in the table below:

	<b>Funds invested at 31 Dec 2014</b>	<b>Average duration to maturity</b>	<b>Weighted average rate of return</b>	<b>Interest earned to 31 Dec 2014</b>	<b>Gross annualised return</b>	<b>7 day LIBID benchmark</b>
	<b>£m</b>	<b>Years</b>	<b>%</b>	<b>£</b>	<b>%</b>	<b>%</b>
<b>In-house cash flow</b>	8.6	0.07	0.69	53,050	0.65	0.35
<b>Externally managed core funds to 31 July</b>	-	0.78 [1]	0.61 [1]	25,500	0.57	0.35
<b>In-house managed core funds from 1 August</b>	13.4	0.25	0.72	40,800	0.72	0.35
<b>Total</b>	22.0	0.18	0.71	119,350	0.65	0.35

[1] Figures shown for comparative purposes represent the values applicable to the externally managed portfolio on 31 July, the day before transfer to In-house management.

1.3.4 Whilst the authority bettered the 7 day LIBID benchmark by 30 basis points, interest earned of £119,350 is £6,150 lower than our 2014/15 original estimate for the same period. This underperformance against budget is attributed to the lower than expected return delivered by our external fund manager in the early part of the financial year and is explored in more detail below.

1.3.5 **Cash flow funds.** Our daily cash flow balances for the year ahead are modelled at the start of the financial year. That cash flow model is then updated daily and

reviewed on a regular basis. The majority of our cash flow surpluses are invested overnight in bank deposit accounts and money market funds to ensure sufficient short term liquidity to meet payment obligations. When cash surpluses permit fixed term investments are undertaken to take advantage of the higher yields available.

- 1.3.6 **Core funds.** Historically these funds have been managed by an external fund manager. They are used to support both revenue and capital expenditure over the next few years of our medium term financial strategy as the Council grapples with savings targets to achieve a balanced budget. The core fund balance of £13.4m is at a level where In-house management is practical without the need for additional staff resources. The 2014/15 Annual Investment Strategy, considered by Audit Committee in January 2014, made provision for these funds to be transferred to In-house management by the end of the financial year and thus contribute to future savings targets through reduced fund management fees. Members are reminded that the transfer to In-house management took place on 1 August 2014.
- 1.3.7 On 1 August all tradable instruments (gilts, treasury bills and certificates of deposit) which comprised the lion's share (£12.6m) of the core fund were transferred to the Council's custody account with King & Shaxon and the cash balance (£0.8m) transferred to the Council's bank account. With the exception of gilts (£2.2m, 1.25%, July 2018) the fund manager's preference for short duration instruments, typically three months in duration, explains the poor performance referred to at paragraph 1.3.4. However, one benefit from their approach is that all core fund investments have now been replenished by the In-house team. The gilt has also been sold and generated a small capital profit on disposal in October 2014.
- 1.3.8 Following the transfer, initial core fund maturities were reinvested in nine month term deposits (both fixed and tradable certificates of deposit) to generate yield. Other maturities as they arose were invested in shorter duration instruments (mix of five and six month durations plus cash on deposit) to retain a degree of liquidity. The table at paragraph 1.3.3 demonstrates an improvement in core fund yield such that interest earned is expected to be in-line with budget for the period 1 August to 31 March 2015.
- 1.3.9 **Current investment position.** A full list of investments held on 2 January 2015 is provided at **[Annex 1]** of this report and a copy of our internal lending list of the same date is provided at **[Annex 2]**.

## 1.4 Annual Investment Strategy for 2015/16

- 1.4.1 **Money market funds (MMFs)** form a critical component in our daily cash flow management. They provide the same day access to cash as a traditional bank deposit account; allow surplus cash to be placed in a 'AAA' credit rated product; and ensure our peak monthly cash balances are disbursed across a range of

counterparties. The current yield on a typical MMF used by the Council is 0.4% and falls roughly mid-way between the average yield from our bank deposit accounts at 0.6% and that offered by the UK Debt Management Office at 0.25%.

- 1.4.2 Regulatory changes affecting funds traded in the US have recently been introduced by the Securities and Exchange Commission. Whilst these regulations do not affect funds domiciled in Europe (the ones we use) regulatory reform in Europe is in progress. The exact nature of the reform and when it will be enacted is unclear at the present time and any change will involve a 'bedding-in period' to allow MMFs to adapt to the new requirements. Any impact on our cash management operation for 2015/16 is thought unlikely.
- 1.4.3 **Stress testing** of UK and EU financial institutions has been in focus during the latter part of 2014. Systematic and regular stress testing has been adopted by both the UK Prudential Regulation Authority (PRA) and the European Banking Authority (EBA) to analyse each banks' resilience to hypothetical adverse macroeconomic scenarios. The tests were initially formulated to highlight any vulnerability present within the tested banks' balance sheets prompting action to improve the banking sector and restore consumer and investor confidence.
- 1.4.4 The results from the PRA tests were published in December. The tests covered the UK's eight largest banks: Barclays, Co-operative Bank, HSBC, Lloyds Banking Group, Nationwide Building Society, Royal Bank of Scotland Group, Santander UK and Standard Chartered. The PRA tests used tougher benchmarks in comparison to the EBA and placed a strong focus on the housing sector which is considered to be the main risk to domestic financial stability.
- 1.4.5 With the exception of the Co-operative Bank, the remaining seven UK banks passed the test albeit the part state owned banking groups of the Royal Bank of Scotland and Lloyds fared less well than others. The results of the test didn't alter the credit ratings of the seven banks that passed and the Co-operative Bank has not featured on the Council's lending list for a number of years.
- 1.4.6 The October report to the Audit Committee included details of a change to **Capita's creditworthiness methodology** which forms part of our assessment of a banks' suitability for inclusion in the Council's lending list. Capita's methodology uses the various components of the rating agency's (Fitch, Moody's and Standard & Poor's) credit rating in a formula to calculate a creditworthiness score for a bank. The lower the score the more creditworthy a bank is deemed to be. The score is also used to determine a maximum duration for fixed term investment.
- 1.4.7 Throughout the financial crisis the rating agencies have provided some institutions with an uplift to their long and short-term credit ratings to reflect sovereign support. Due to the evolving regulatory regime, these uplifts are going to be removed by the rating agencies. Rather than the bank 'bail-outs' that we have become accustomed to (taxpayer investment in RBS and Lloyds) a 'bail-in' by investors will be the norm in the future.

- 1.4.8 It is important to stress that the change in approach by the rating agencies does not reflect a change in the underlying status of an institution or the credit environment in which they operate, merely the implied level of support that has been built into ratings through the financial crisis. The eventual removal of Government support will only take place when the regulatory environment has ensured that financial institutions are much stronger and less prone to failure in a crisis should one occur in the future.
- 1.4.9 All three rating agencies provide a long-term (up to five years) and short-term (up to one year) credit rating. Fitch and Moody's also provide a rating which assesses the ability of a financial institution to meet payment obligations in the absence of any external support (known as the 'viability' and 'financial strength' ratings). Fitch also provides a separate assessment of the likelihood of and quality of that external support through their 'support' rating. In the future these additional rating components will effectively become redundant and as a consequence are now excluded from Capita's creditworthiness formula. Rating watch and outlook information continues to feature in Capita's overall assessment as does the market view of risk derived from credit default swap data.
- 1.4.10 Capita introduced the change in approach in June of this year and at that time it had little impact on their creditworthiness assessments. No banks were removed from the list of suggested counterparties, a few were added and a few had their recommended investment duration increased by one band. However, the long and short-term credit ratings of some banks **may** reduce in the future as the rating agencies remove the uplift derived from sovereign support. No time scale for the change in approach has been given by the rating agencies.
- 1.4.11 Capita's amended methodology now implies a minimum long-term credit rating of Fitch 'A-' or equivalent rather than Fitch 'A'. The minimum short-term credit rating of Fitch 'F1' has not altered. Fitch use plus and minus after the letter to denote relative status between financial institutions assigned to the 'AA' and 'A' rating categories. In the Fitch criteria 'A' denotes 'high credit quality' and 'F1' denotes 'highest short-term credit quality'.
- 1.4.12 The Annual Investment Strategy for 2015/16 at **[Appendix 3]** adopts Fitch 'A-', 'F1' or equivalent as the Council's minimum credit criteria. The Strategy makes no other changes to the parameters currently in use to limit the Council's exposure to investment risks.

## 1.5 Legal Implications

- 1.5.1 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.
- 1.5.2 This report fulfils the requirements of The Chartered Institute of Public Finance & Accountancy's Code of Practice on Treasury Management 2009.

## 1.6 Financial and Value for Money Considerations

- 1.6.1 The Bank Rate has remained at a historic low of 0.5% for over 6 years. Capita, our treasury advisors, in common with other market forecasts, anticipate an interest rate rise sometime during the quarter ending December of next financial year.
- 1.6.2 Investment income is £6,150 below budget at the end of December. The shortfall is attributed to the relatively poor performance achieved by our external fund manager in the early part of the year. Core funds were transferred to In-house management at the beginning of August and investment income for the remainder of the financial year is expected to be in-line with budget.
- 1.6.3 A small uplift over current returns is anticipated in the budgeted returns for 2015/16 (0.75% cash flow and 1.0% for core funds).
- 1.6.4 Investment performance is monitored against relevant benchmarks and compared to other local authorities using benchmarking data provided by Capita.

## 1.7 Risk Assessment

- 1.7.1 Capita are employed to advise on the content of the Treasury Management Strategy Statement and Annual Investment Strategy and this, coupled with a regular audit of treasury activities ensures that the requirements of the Strategy and the Treasury Policy Statement adopted by this Council are complied with.
- 1.7.2 Credit ratings remain a key tool in assessing risk. It is recognised that their use should be supplemented with sovereign ratings and market intelligence. Appropriate sovereign, group and counterparty limits need to be established to ensure an appropriate level of diversification.
- 1.7.3 In the light of these safeguards and stringent Treasury Management Procedures it is considered that any risks to the authority implicit in the 2015/16 Strategy have been minimised.

## 1.8 Equality Impact Assessment

- 1.8.1 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.

## 1.9 Recommendations

- 1.9.1 Members are invited to **RECOMMEND** that full Council:

- 1) note the treasury management position as at 31 December 2014;
- 2) reduce the current minimum long-term credit requirement from Fitch 'A' to Fitch 'A-' or equivalent;

- 3) adopts the Treasury Management Strategy Statement and Annual Investment Strategy for 2015/16 set out at **[Annex 3]**.

Background papers:

contact: Mike Withey

Nil

Sharon Shelton  
Director of Finance & Transformation

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## Investment Summary as at 2 January 2015

Counterparty	Sovereign	Fitch Credit rating				Capita Credit Worthiness/ Suggested Duration Limit	Investment type (Specified/Non-specified) [Statement date to Maturity]	Investment from	Maturity Date	Principal sum invested £	Return (coupon / yield at purchase) %	% of total investments	Instrument type	Core Funds £	Cash Flow £	
		Long Term	Short Term	Viability	Support											
Bank of Scotland	UK	A	F1	a-	1	1 year	Specified	11/04/2014	13/04/2015	1,000,000	0.95%	7.57%	Fixed deposit	1,000,000	1,000,000	
Bank of Scotland	UK	A	F1	a-	1	1 year	Specified	14/10/2014	14/04/2015	1,000,000	0.70%					
<b>Bank of Scotland Total</b>										<b>2,000,000</b>						
Barclays Bank	UK	A	F1	a	1	6 months	Specified	29/08/2014	29/05/2015	1,000,000	0.80%	8.52%	Fixed deposit	1,000,000		
Barclays Bank	UK	A	F1	a	1	6 months	Specified	22/10/2014	22/07/2015	1,250,000	0.78%		Fixed deposit	1,250,000		
<b>Barclays Bank Total</b>										<b>2,250,000</b>						
BNP Paribas MMF	Luxembourg	AAA	mmf (Eq)	-	-	5 years	Specified	02/01/2015	05/01/2015	2,100,000	0.46%	7.95%	Call - MMF		2,100,000	
<b>BNP Paribas MMF Total</b>										<b>2,100,000</b>						
Goldman Sachs MMF	Ireland	AAA	mmf	-	-	5 years	Specified	02/01/2015	05/01/2015	1,328,000	0.42%	5.03%	Call - MMF		1,328,000	
<b>Goldman Sachs MMF Total</b>										<b>1,328,000</b>						
Handelsbanken [1]	Sweden	AA-	F1+	aa-	1	12 months	Specified	02/01/2015	05/01/2015	4,350,000	0.45/ .50%	16.47%	Call	2,250,000	2,100,000	
<b>Handelsbanken Bank Total</b>										<b>4,350,000</b>						
Ignis MMF	Ireland	AAA	mmf	-	-	5 years	Specified	02/01/2015	05/01/2015	2,100,000	0.42%	7.95%	Call - MMF		2,100,000	
<b>Ignis MMF Total</b>										<b>2,100,000</b>						
Insight Liquidity Plus EMF	Ireland	AAA	f/S1 (S&P)	-	-	5 years	Specified	18/02/2014	05/01/2015	1,050,000	0.78%	3.98%	Call - EMF		1,050,000	
<b>Insight Liquidity Funds Total</b>										<b>1,050,000</b>						
Lloyds Bank	UK	A	F1	a-	1	1 year	Specified	11/04/2014	13/04/2015	1,000,000	0.95%	9.46%	Fixed deposit	1,000,000	1,000,000	
Lloyds Bank	UK	A	F1	a-	1	1 year	Specified	23/09/2014	23/03/2015	1,000,000	0.70%		Fixed deposit			1,000,000
Lloyds Bank	UK	A	F1	a-	1	1 year	Specified	22/10/2014	22/07/2015	500,000	0.80%		Fixed deposit			500,000
<b>Lloyds Bank Total</b>										<b>2,500,000</b>						
National Westminster Bank Call Account	UK	A	F1	bbb	1	1 year	Specified	02/01/2015	05/01/2015	185,000	0.25%	0.70%	Call		185,000	
<b>National Westminster Bank Total</b>										<b>185,000</b>						
Nationwide Building Society	UK	A	F1	a	1	6 months	Specified	29/08/2014	29/05/2015	1,000,000	0.80%	7.57%	Fixed deposit	1,000,000		
Nationwide Building Society	UK	A	F1	a	1	6 months	Specified	14/10/2014	16/03/2015	1,000,000	0.60%		Fixed deposit			1,000,000
<b>Nationwide Building Society Total</b>										<b>2,000,000</b>						
Santander UK Plc	UK	A	F1	a	1	6 months	Specified	02/01/2015	05/01/2015	4,551,000	0.80%	17.23%	Call	2,451,000	2,100,000	
<b>Santander UK Plc Total</b>										<b>4,551,000</b>						
Standard Chartered Bank	UK	AA-	F1+	aa-	1	6 months	Specified	02/09/2014	02/06/2015	1,000,000	0.84%	7.57%	CD	1,000,000		
Standard Chartered Bank	UK	AA-	F1+	aa-	1	6 months	Specified	08/09/2014	08/06/2015	1,000,000	0.84%		CD			1,000,000
<b>Standard Chartered Bank Total</b>										<b>2,000,000</b>						
<b>Total invested</b>										<b>26,414,000</b>		<b>100.00%</b>		<b>13,451,000</b>	<b>12,963,000</b>	

Number of investments	20	Average investment value £	1,321,000
Number of counter parties	12	Average investment per counter party £	2,201,000
<b>Group exposures (UK Nationalised) - max 25% for core funds or £2.6m cash flow.</b>			
RBS + National Westminster excluding RBS managed Global Treasury Fund		Core £	0
		Core %	0.00%
		Cash £	185,000
Bank of Scotland + Lloyds		Core £	2,500,000
		Core %	18.59%
		Cash £	2,000,000

<b>Total non-specified investments should be less than 60% of Core Funds</b>	0.00%
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[1] 0.45% upto £2.5m, 0.50% over £2.5m

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## Tonbridge and Malling Borough Council Internal Lending List

Checked against Capita Duration Matrix dated 02/01/15										
Minimum investment criteria is Capita Green (100 days) Duration Band (entry point broadly equates to Fitch A, F1, bbb-, 1 unless UK nationalised / semi-nationalised).										
Counterparty	Sovereign	Sovereign Rating [1]	Fitch Long Term	Fitch Short Term	Fitch Viability	Fitch Support	Exposure Limits			Capita Duration [2]
							Cash Flow	Core Fund	Combined	
Nordea Bank	Finland	AA+	AA-	F1+	aa-	1	£2.1m	£2.6m	£4.7m	12 months
Deutsche Bank	Germany	AAA	A+	F1+	a	1	£2.1m	£2.6m	£4.7m	100 days
ING Bank	Netherlands	AA+	A+	F1+	a	1	£2.1m	£2.6m	£4.7m	6 months
Svenska Handelsbanken AB	Sweden	AAA	AA-	F1+	aa-	1	£2.1m	£2.6m	£4.7m	12 months
Barclays Bank	UK	AA+	A	F1	a	1	£2.1m	£2.6m	£4.7m	6 months
HSBC Bank plc	UK	AA+	AA-	F1+	a+	1	£2.1m	£2.6m	£4.7m	12 months
Santander UK plc	UK	AA+	A	F1	a	1	£2.1m	£2.6m	£4.7m	6 months
Standard Chartered Bank	UK	AA+	AA-	F1+	aa-	1	£2.1m	£2.6m	£4.7m	6 months
Nationwide Building Society	UK	AA+	A	F1	a	1	£2.1m	£2.6m	£4.7m	6 months
Bank of Scotland plc [3] Group limit with BOS and Lloyds of £2.6m	UK	AA+	A	F1	a-	1	£2.6m	£3.3m	£5.9m	12 Months
Lloyds Bank plc [3] Group limit with BOS and Lloyds of £2.6m	UK	AA+	A	F1	a-	1	£2.6m	£3.3m	£5.9m	12 Months
National Westminster Bank plc [3] Group limit with Nat West and RBS of £2.6m	UK	AA+	A	F1	bbb	1	£2.6m	£3.3m	£5.9m	12 Months
The Royal Bank of Scotland plc [3] Group limit with Nat West and RBS of £2.6m	UK	AA+	A	F1	bbb	1	£2.6m	£3.3m	£5.9m	12 Months
UK Debt Management Office inc Treasury Bills	UK	AA+	N/A	N/A	N/A	N/A	No limit	No limit	No limit	N/A
UK Treasury - Sovereign Bonds (Gilts)	UK	AA+	N/A	N/A	N/A	N/A	N/A	£6.7m	£6.7m	N/A
UK Local Authorities	UK	AA+	N/A	N/A	N/A	N/A	£2.1m	£2.6m	£4.7m	N/A

[1] Reflects the lowest of the three rating agencies views (Fitch, Moody's and Standard and Poor's). Strategy requires sovereigns to be rated at least AA-.

[2] All deposits overnight unless otherwise approved by the Director of Finance and Transformation AND Chief Financial Services Officer. If other than overnight duration must not exceed Capita's recommendation (Capita + 3 months for UK Entities up to a maximum of 12 months).

[3] UK nationalised / semi-nationalised.

**Money Market Funds**

**Minimum investment criteria one of AAA-mf, AAAMmf or AAAM.**

Fund Name	Moody	Fitch	S&P	Exposure Limit		
				Cash Flow	Core Fund	Combined
Blackrock	AAA-mf	-	AAAM	£2.1m	£2.6m	£4.7m
BNP Paribas	-	-	AAAM	£2.1m	£2.6m	£4.7m
Goldman Sachs	AAA-mf	AAAMmf	AAAM	£2.1m	£2.6m	£4.7m
Deutsche Fund	AAA-mf	-	AAAM	£2.1m	£2.6m	£4.7m
Ignis	-	AAAMmf	AAAM	£2.1m	£2.6m	£4.7m
Morgan Stanley	AAA-mf	AAAMmf	AAAM	£2.1m	£2.6m	£4.7m
Prime Rate	AAA-mf	AAAMmf	AAAM	£2.1m	£2.6m	£4.7m
Insight	-	AAAMmf	AAAM	£1.05m	£1.3m	£2.35m

**Enhanced Cash Funds**

**Minimum investment criteria AAA.**

Fund Name	Moody	Fitch	S&P	Exposure Limit		
				Cash Flow	Core Fund	Combined
Insight Liquidity Plus	-	-	AAAf/S1	£1.05m	£1.3m	£2.35m

Approved by Director of  
Finance & Transformation  
5th January 2015

No Change

## **Treasury Management Strategy Statement and Annual Investment Strategy for 2015/16**

### **1 Introduction**

#### **1.1 Background**

##### 1.1.1 Treasury management is defined as:

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

#### **1.2 Statutory requirements**

1.2.1 The Local Government Act 2003 (the Act) and supporting regulations requires the Council to ‘have regard to’ the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice to set Prudential and Treasury Indicators for the next three years to ensure that the Council’s capital investment plans are affordable, prudent and sustainable.

1.2.2 The Act requires the Council to set out its treasury strategy for borrowing and to prepare an Annual Investment Strategy (as required by Investment Guidance subsequent to the Act and included at Section 7 of this report); this sets out the Council’s policies for managing its investments and for giving priority to the security and liquidity of those investments.

1.2.3 The Department of Communities and Local Government has issued revised investment guidance which came into effect from 1 April 2010. There were no major changes required over and above the changes already required by the revised CIPFA Treasury Management Code of Practice 2009.

#### **1.3 CIPFA requirements**

1.3.1 The Chartered Institute of Public Finance and Accountancy’s (CIPFA) Code of Practice on Treasury Management (revised November 2009) was adopted by this Council on 18 February 2010. In preparing this strategy due regard has also been given to subsequent revisions to the code.

1.3.2 The primary requirements of the Code are as follows:

- 1 Creation and maintenance of a Treasury Management Policy Statement which sets out the policies and objectives of the Council's treasury management activities.
- 2 Creation and maintenance of Treasury Management Practices which set out the manner in which the Council will seek to achieve those policies and objectives.
- 3 Receipt by the full Council of an annual Treasury Management Strategy Statement, including the Annual Investment Strategy, for the year ahead; a Mid-year Review Report; and an Annual Report (stewardship report) covering activities during the previous year.
- 4 Delegation by the Council of responsibilities for implementing and monitoring treasury management policies and practices and for the execution and administration of treasury management decisions.
- 5 Delegation by the Council of the role of scrutiny of treasury management strategy and policies to a specific named body. For this Council the delegated body is the Audit Committee.

1.3.3 The scheme of delegation and role of the Section 151 officer that give effect to these requirements are set out at **[Appendix 1]** and **[Appendix 2]** respectively.

#### **1.4 Treasury Management Strategy for 2015/16**

1.4.1 The suggested strategy for 2015/16 in respect of the following aspects of the treasury management function is based upon the treasury officers' views on interest rates, supplemented with market forecasts provided by the Council's treasury advisor, Capita Asset Services (previously known as Sector).

1.4.2 The strategy covers:

- treasury limits in force which will limit the treasury risk and activities of the Council
- the current treasury position
- the borrowing requirement
- Prudential and Treasury Indicators
- prospects for interest rates
- creditworthiness policy
- the investment strategy
- policy on use of external service providers

## **1.5 Balanced Budget Requirement**

1.5.1 It is a statutory requirement under Section 33 of the Local Government Finance Act 1992, for the Council to produce a balanced budget. In particular, Section 32 requires a local authority to calculate its budget requirement for each financial year to include the revenue costs that flow from capital financing decisions. This means that increases in capital expenditure must be limited to a level whereby increases in charges to revenue from:

- increases in interest charges caused by increased borrowing to finance additional capital expenditure, and
- any increases in running costs from new capital projects are limited to a level which is affordable within the projected income of the Council for the foreseeable future.

## **2 Treasury Limits for 2015/16 to 2017/18**

2.1 It is a statutory duty under Section 3 of the Act and supporting regulations, for the Council to determine and keep under review how much it can afford to borrow. The amount so determined is termed the 'Affordable Borrowing Limit'. In England and Wales the Authorised Limit represents the legislative limit specified in the Act.

2.2 The Council must have regard to the Prudential Code when setting the Authorised Limit, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future council tax levels is 'acceptable'.

2.3 Whilst termed an 'Affordable Borrowing Limit', the capital plans to be considered for inclusion incorporate financing by both external borrowing and other forms of liability, such as credit arrangements. The Authorised Limit is to be set, on a rolling basis, for the forthcoming financial year and two successive financial years; details of the Authorised Limit can be found in **[Appendix 3]** of this report.

## **3 Current Portfolio Position**

3.1 The Council is debt free and as such the overall treasury position at 31 December 2014 comprised only investments, which totaled £22.0m generating an average return of 0.71%.

## **4 Borrowing Requirement**

- 4.1 Other than for cash flow purposes and then within the limits set out at **[Appendix 3]** borrowing will not be necessary. All capital expenditure in 2015/16 will be funded from the Revenue Reserve for Capital Schemes, grants, developer contributions and capital receipts arising from the sale of assts.

## **5 Prudential and Treasury Indicators for 2015/16 – 2017/18**

- 5.1 Prudential and Treasury Indicators as set out in **[Appendix 3]** are relevant for the purposes of setting an integrated treasury management strategy.
- 5.2 The Council is also required to indicate if it has adopted the CIPFA Code of Practice on Treasury Management. The original 2001 Code was adopted on 30 September 2003 and the revised 2009 Code was adopted by the full Council on 18 February 2010. Subsequent Code amendments are also complied with.

## **6 Prospects for Interest Rates**

- 6.1 The Council has appointed Capita Asset Services as treasury advisor to the Council and part of their service is to assist the Council to formulate a view on interest rates. **[Appendix 4]** draws together a number of current City forecasts for short term (Bank Rate) and longer fixed interest rates. Capita's expectation for the Bank Rate for the financial year ends (March) is:
- 2014/ 2015 0.50%
  - 2015/ 2016 0.75%
  - 2016/ 2017 1.25%
  - 2017/ 2018 2.00%
- 6.3 UK GDP growth surged during 2013 and the first half of 2014 peaking at 0.9% in Q2 2014 (annualised rate of 3.2%). Since then growth has become more subdued but still remains strong by UK standards and is expected to continue likewise into 2015 and 2016. However, there needs to be a rebalancing of the economy away from consumer spending to manufacturing, business investment and exports for the recovery to become more firmly established. One drag on the economy has been that wage inflation has only recently started to exceed CPI inflation, so enabling disposable income and living standards to start improving. The plunge in the price of oil brought inflation down to a low of 1.0% (CPI) in November, the lowest since September 2002. Inflation is expected to stay around or below 1.0%

over the next 12 months which will help improve consumer disposable income and so underpin economic growth. However, labour productivity needs to improve substantially to enable wage rates to increase and further support consumer disposable income and economic growth. In addition, the encouraging rate at which unemployment has been falling must eventually feed through into pressure for wage increases, though current views on the amount of slack in the labour market suggest this is unlikely to happen in the early part of 2015.

- 6.4 The US, the biggest world economy, has generated growth rates of 4.6% (annualised) in Q2 2014 and 5.0% in Q3. This is hugely promising for the outlook for strong growth going forward and it very much looks as if the US is now firmly on the path of full recovery from the financial crisis of 2008. Consequently, it is now expected that the US will be the first major western economy to start on central rate increases and these are anticipated by mid 2015.
- 6.5 The current economic outlook and structure of market interest rates and government debt yields have several key treasury management implications:
- Greece: the general election in January 2015 may bring a political party to power which is anti Eurozone and anti austerity. However, if this eventually results in Greece leaving the Euro, it is unlikely that this will destabilise the Eurozone as adequate firewalls to contain the immediate impact have now been put in place. The indirect effects of the likely strengthening of anti EU and anti austerity political parties throughout the EU, however, are more difficult to quantify;
  - Eurozone concerns in general subsided during 2013. However, the downturn in growth and inflation during the second half of 2014 and worries over the Ukraine and Middle East have led to a resurgence of those concerns as risks increase that the Eurozone could be heading into deflation and prolonged very weak growth. Sovereign debt difficulties have not gone away and concerns could return in respect of individual countries that do not address the fundamental issues of low growth, international uncompetitiveness and the need for economic reform. It is possible that over the next few years government debt to GDP ratios continue to rise to levels that result in a loss of investor confidence in the financial viability of such countries. Counterparty risks therefore remain elevated. This continues to

suggest the use of higher quality counterparties for shorter time periods;

- Investment returns are likely to remain relatively low during 2015/16 and beyond.

6.5 A more detailed view of the current economic background, provided by Capita, is contained in **[Appendix 5]**.

## **7 Annual Investment Strategy**

### **7.1 Investment Policy**

7.1.1 The Council's investment policy has regard to the CLG's Guidance on Local Government Investments and the CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes (adopted 2009 Code and subsequent revisions). As a consequence, the Council's investment priorities are:

- the security of capital and;
- the liquidity of its investments.

7.1.2 The Council also aims to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The risk appetite of this Council is low in order to give priority to the security of its investments.

7.1.3 The borrowing of monies purely to invest or on-lend and make a return is unlawful and this Council will not engage in such activity.

7.1.4 Investment instruments identified for use in the financial year are listed in **[Appendix 6]** under the 'Specified' and 'Non-Specified' Investments categories. Counterparty limits will be as set out at paragraph 7.3.2.

### **7.2 Creditworthiness Policy**

7.2.1 This Council uses the creditworthiness service provided by Capita. This service has been progressively enhanced over the last few years and now uses a sophisticated modelling approach with credit ratings from all three rating agencies - Fitch, Moody's and Standard and Poor's forming the core element. However, it does not rely solely on the current credit ratings of counterparties but also uses the following as overlays:

- credit watches and credit outlooks from credit rating agencies;

- Credit Default Swap (CDS) spreads to give early warning of likely changes in credit ratings; and
- sovereign ratings to select counterparties from only the most creditworthy countries.

7.2.2 This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour code bands which indicate the relative creditworthiness of counterparties. These colour codes are also used by the Council to **inform** the duration for investments and are therefore referred to as durational bands. The Council is satisfied that this service now gives a much improved level of security for its investments. It is also a service which the Council would not be able to replicate using in-house resources.

7.2.3 The selection of counterparties with a high level of creditworthiness will be achieved by selection of institutions down to a minimum durational band within Capita's weekly credit list of worldwide potential counterparties. Subject to an appropriate sovereign and counterparty rating the Council will therefore use counterparties within the following durational bands:

Yellow	5 years
Purple	2 years
Blue	1 year (nationalised or part nationalised UK Banks)
Orange	1 year
Red	6 months
Green	100 Days (previously 3 months)

7.2.4 This Council will not use the approach suggested by CIPFA of using the lowest rating from all three rating agencies to determine creditworthy counterparties as Moody's tend to be more aggressive in giving low ratings than the other two agencies. This approach has the potential to leave the Council with few banks on its approved lending list. The Capita creditworthiness service does though, use ratings from all three agencies, but by using a risk weighted scoring system, does not give undue preponderance to just one agency's ratings.

7.2.5 All credit ratings will be reviewed weekly and monitored on a daily basis. The Council is alerted to changes to ratings of all three agencies through its use of the Capita creditworthiness service.

- if a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.
- in addition to the use of Credit Ratings the Council will be advised of information in movements in Credit Default Swap against the iTraxx benchmark and other market data on a weekly basis. Extreme market movements may result in a downgrade of an institution or removal from the Councils lending list.

7.2.6 Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, information on government support for banks and the credit ratings of that government support.

### 7.3 Country, Group and Counterparty Limits

7.3.1 The Council has determined that it will only use approved counterparties from countries with a minimum sovereign credit rating of 'AA-' as determined by all three rating agencies (Fitch, Moody's and Standard and Poor's). The list of countries that qualify using this credit criteria as at the date of this report are shown in **[Appendix 7]**. This list will be added to, or deducted from; by officers should ratings change in accordance with this policy.

7.3.2 Avoidance of a concentration of investments in too few counterparties or countries is a key to effective diversification and in this regard the limits set out below are thought to achieve a prudent balance between risk and practicality and are applicable to both cash flow and core fund investment.

Country, Counterparty and Group exposure	Maximum Proportion of Cash Flow and Core Funds
UK Sovereign (subject to a minimum rating of AA- )	100%
Each non-UK Sovereign rated AA- or better	20%
Group limit excluding UK nationalised / part nationalised banks	20%
Each counterparty rated <b>Fitch A-, F1</b> (green using Capita's credit methodology) or better ( <b>previously Fitch A, F1, bbb-,1</b> )	20%
Each UK nationalised or part nationalised bank / group	25%

Each AAA multilateral / supranational bank	20%
Each AAA rated bond fund / gilt fund / enhanced cash fund / government liquidity fund / equity fund or property fund subject to maximum 20% exposure to all such funds	10%
Each money market fund rated Moody's AAAmf, Fitch AAAmf, Standard & Poor's AAAM	20%
Non-specified investments over 1 year duration	60%

7.3.3 Cash flow balances vary depending on the timing of receipts and payments during the month and from month to month. For cash flow investments the limits identified in paragraph 7.3.2 will be based on an estimate of the expected average daily cash flow balance at the start of the financial year.

## 7.4 Investment Strategy

### Available funds

7.4.1 Funds available for investment are split between cash flow and core funds. Cash flow funds are generated from the collection of council tax, business rates and other income streams. They are consumed during the financial year to meet payments to precepting authorities and government (NNDR contributions) and to meet service delivery costs (benefit payments, staff salaries and suppliers in general). The consumption of cash flow funds during the course of a financial year places a natural limit on the maximum duration of investments (up to one year). Core funds comprise monies set aside in the Council's revenue and capital reserves and are generally available to invest for durations in excess of one year.

### Cash flow investments

7.4.2 The average daily cash flow balance throughout 2015/16 is expected to be £9.0m. Of that figure some £3m is likely to be available for longer than three months. Cash flow investments will be made with reference to cash flow requirements (liquidity) and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Liquidity will be maintained by using bank deposit accounts and money markets funds. Where duration can be tolerated, additional yield will be generated by utilising term deposits with banks and building societies and enhanced cash funds. Cash balances available for more than 3

months may be transferred to the core fund portfolio if a better overall return for the Council can be achieved by doing so.

- 7.4.6 In compiling the Council's estimates for 2015/16 a return on cash flow investments of 0.75% has been assumed. This return is a modest improvement on the return being achieved in 2014/15 (0.65% to December) and anticipates the Bank Rate will rise above the current 0.5% during the latter part of the financial year.

#### **Core fund investments**

- 7.4.7 Historically the Council's core funds have been managed by an external fund manager. All core funds were returned to the Council during 2014/15 for In-house management. The core fund balance is diminishing as a proportion is consumed each year (approximately £2.25m per annum) to support the Council's revenue budget and capital expenditure plans. The average core fund balance during 2015/16 is expected to be £10m.
- 7.4.10 The Council will avoid locking into longer term deals while investment rates continue their current low levels unless attractive rates are available with counterparties of particularly high creditworthiness which make longer term deals worthwhile and are within the risk parameters set by this Council.
- 7.4.11 In compiling the Council's estimates for 2015/16 a return on core fund investments of 1.0% has been assumed. This return anticipates a small uplift in yield will be generated over cash flow investment expectations (paragraph 7.4.6) and offers a modest uplift on the current core fund return (0.72% to December 2014). Subject to the credit quality and exposure limits outlined in paragraph 7.3.2, liquidity and yield will be achieved by a mix of investments using predominantly fixed term deposits and certificates of deposit. Notice accounts and enhanced cash funds will also be used if these offer favourable returns relative to term deposits.

#### **7.5 End of year investment report**

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

#### **7.6 Policy on the use of external service providers**

- 7.6.1 The Council uses Capita as its external treasury management advisors.

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

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

January 2015

Appendices

1. Treasury management scheme of delegation
2. Treasury management role of the section 151 officer
3. Prudential and Treasury indicators
4. Interest rate forecasts
5. Economic background
6. Specified and Non-specified Investments
7. Approved countries for investments

**Appendix 1 Treasury management scheme of delegation****(i) Full council**

- budget approval.
- approval of treasury management policy.
- approval of the annual Treasury Management Strategy Statement and Annual Investment Strategy.
- approval of amendments to the Council's adopted clauses, Treasury Management Policy Statement and the annual Treasury Management Strategy Statement and Annual Investment Strategy.
- approval of the treasury management outturn report.

**(ii) Cabinet**

- budget consideration.
- approval of Treasury Management Practices.
- approval of the division of responsibilities.
- approval of the selection of external service providers and agreeing terms of appointment.
- acting on recommendations in connection with monitoring reports.

**(iii) Audit Committee**

- reviewing the annual Treasury Management Strategy Statement and Annual Investment Strategy and making recommendations to Cabinet and Council.
- receive reports on treasury activity at regular intervals during the year and making recommendations to Cabinet.
- reviewing treasury management policy, practices and procedures and making recommendations to Cabinet and Council.

**(iv) Finance, Innovation and Property Advisory Board**

- receiving budgetary control reports at regular intervals that include treasury management performance.

**Appendix 2 Treasury management role of the section 151 officer**

**The S151 (responsible) officer**

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance.
- submitting regular treasury management policy reports.
- submitting budgets and budget variations.
- receiving and reviewing management information reports.
- reviewing the performance of the treasury management function.
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function.
- ensuring the adequacy of internal audit, and liaising with external audit.
- recommending the appointment of external service providers.

### Appendix 3 Prudential and Treasury Indicators

The prudential indicators relating to capital expenditure cannot be set until the capital programme is finally determined and will as a consequence be reported as part of the Setting the Budget for 2015/16 report that is to be submitted to Cabinet on 12 February 2015.

The treasury management indicators are as set out in the table below:

TREASURY MANAGEMENT INDICATORS	2013/14	2014/15	2015/16	2016/17	2017/18
	Actual	Estimate	Estimate	Estimate	Estimate
	£'000	£'000	£'000	£'000	£'000
Authorised Limit for external debt :					
borrowing	Nil	5,000	5,000	5,000	5,000
other long term liabilities	Nil	Nil	Nil	Nil	Nil
TOTAL	Nil	5,000	5,000	5,000	5,000
Operational Boundary for external debt:-					
borrowing	Nil	2,000	2,000	2,000	2,000
other long term liabilities	Nil	Nil	Nil	Nil	Nil
TOTAL	Nil	2,000	2,000	2,000	2,000
Actual external debt	Nil	Nil	Nil	Nil	Nil
Upper limit for fixed interest rate exposure > 1 year at year end	Nil	It is anticipated that net exposure will range between 0% to 60%			
Upper limit for variable rate exposure < 1 year at year end	16,309 (86.1%)	It is anticipated that net exposure will range between 40% to 100%			
Upper limit for total principal sums invested for over 364 days at year end	2,234 (11.8%)	60% of core funds			

Maturity structure of fixed rate borrowing during 2015/16	upper limit	lower limit
under 12 months	100 %	0 %
Over 12 months	0 %	0 %

## Appendix 4 Interest Rate Forecasts (January 2015)

Capita Asset Services Interest Rate View													
	Mar-15	Jun-15	Sep-15	Dec-15	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18
<b>Bank Rate View</b>	0.50%	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	1.50%	1.75%	1.75%	2.00%
3 Month LIBID	0.50%	0.50%	0.60%	0.80%	0.90%	1.10%	1.10%	1.30%	1.40%	1.50%	1.80%	1.90%	2.10%
6 Month LIBID	0.70%	0.70%	0.80%	1.00%	1.10%	1.20%	1.30%	1.50%	1.60%	1.70%	2.00%	2.10%	2.30%
12 Month LIBID	0.90%	1.00%	1.10%	1.30%	1.40%	1.50%	1.60%	1.80%	1.90%	2.00%	2.30%	2.40%	2.60%
5yr PWLB Rate	2.20%	2.20%	2.30%	2.50%	2.60%	2.80%	2.90%	3.00%	3.20%	3.30%	3.40%	3.50%	3.60%
10yr PWLB Rate	2.80%	2.80%	3.00%	3.20%	3.30%	3.50%	3.60%	3.70%	3.80%	3.90%	4.00%	4.10%	4.20%
25yr PWLB Rate	3.40%	3.50%	3.70%	3.80%	4.00%	4.20%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%
50yr PWLB Rate	3.40%	3.50%	3.70%	3.80%	4.00%	4.20%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%
<b>Bank Rate</b>													
Capita Asset Services	0.50%	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	1.50%	1.75%	1.75%	2.00%
Capital Economics	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	-	-	-	-	-
<b>5yr PWLB Rate</b>													
Capita Asset Services	2.20%	2.20%	2.30%	2.50%	2.60%	2.80%	2.90%	3.00%	3.20%	3.30%	3.40%	3.50%	3.60%
Capital Economics	2.20%	2.50%	2.70%	3.00%	3.10%	3.20%	3.30%	3.40%	-	-	-	-	-
<b>10yr PWLB Rate</b>													
Capita Asset Services	2.80%	2.80%	3.00%	3.20%	3.30%	3.50%	3.60%	3.70%	3.80%	3.90%	4.00%	4.10%	4.20%
Capital Economics	2.80%	3.05%	3.30%	3.55%	3.60%	3.65%	3.70%	3.80%	-	-	-	-	-
<b>25yr PWLB Rate</b>													
Capita Asset Services	3.40%	3.50%	3.70%	3.80%	4.00%	4.20%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%
Capital Economics	3.25%	3.45%	3.65%	3.85%	3.95%	4.05%	4.15%	4.25%	-	-	-	-	-
<b>50yr PWLB Rate</b>													
Capita Asset Services	3.40%	3.50%	3.70%	3.80%	4.00%	4.20%	4.30%	4.40%	4.50%	4.60%	4.70%	4.70%	4.80%
Capital Economics	3.30%	3.50%	3.70%	3.90%	4.00%	4.10%	4.20%	4.30%	-	-	-	-	-

**Appendix 5 Economic Background Provided by Capita Asset Services**

**UK.** After strong UK GDP growth in 2013 at an annual rate of 2.7%, and then in 2014 0.7% in Q1, 0.9% in Q2 2014 (annual rate 3.2% in Q2), Q3 has seen growth fall back to 0.7% in the quarter and to an annual rate of 2.6%. It therefore appears that growth has eased since the surge in the first half of 2014 leading to a downward revision of forecasts for 2015 and 2016, albeit that growth will still remain strong by UK standards. For this recovery to become more balanced and sustainable in the longer term, the recovery needs to move away from dependence on consumer expenditure and the housing market to exporting, and particularly of manufactured goods, both of which need to substantially improve on their recent lacklustre performance. This overall strong growth has resulted in unemployment falling much faster than expected. The MPC is now focusing on how quickly slack in the economy is being used up. It is also particularly concerned that the squeeze on the disposable incomes of consumers should be reversed by wage inflation rising back significantly above the level of inflation in order to ensure that the recovery will be sustainable. There also needs to be a major improvement in labour productivity, which has languished at low levels since 2008, to support increases in pay rates. Unemployment is expected to keep on its downward trend and this is likely to eventually feed through into a return to significant increases in wage growth at some point during the next three years. However, just how much those future increases in pay rates will counteract the depressive effect of increases in Bank Rate on consumer confidence, the rate of growth in consumer expenditure and the buoyancy of the housing market, are areas that will need to be kept under regular review.

Also encouraging has been the sharp fall in inflation (CPI), reaching 1.0% in November 2014, the lowest rate since September 2002. Forward indications are that inflation is likely to remain around or under 1% for the best part of a year. The return to strong growth has helped lower forecasts for the increase in Government debt over the last year but monthly public sector deficit figures during 2014 have disappointed until November. The autumn statement, therefore, had to revise the speed with which the deficit is forecast to be eliminated.

**Euro zone (EZ).** The Euro zone is facing an increasing threat from weak or negative growth and from deflation. In November 2014, the inflation rate fell further, to reach a low of 0.3%. However, this is an average for all EZ countries and includes some countries with negative rates of inflation. The European Central Bank (ECB) took limited action in June and September 2014 to loosen monetary policy in order to promote growth. It now appears likely that the ECB will embark on full quantitative easing (purchase of EZ country sovereign debt) in early 2015.

Concern in financial markets for the Euro zone subsided considerably after the prolonged crisis during 2011-2013. However, sovereign debt difficulties have not gone away and major issues could return in respect of any countries that do not dynamically address fundamental issues of low growth, international uncompetitiveness and the need for overdue reforms of the economy. It is, therefore, possible over the next few years that levels of government debt to GDP ratios could continue to rise for some countries. This could mean that sovereign debt concerns have not disappeared but, rather, have only been postponed. The ECB's pledge in 2012 to buy unlimited amounts of bonds of countries which ask for a bailout has provided heavily indebted countries with a strong defence against market forces. This has bought them time to make progress with their economies to return to growth or to reduce the impact of recession. However, debt to GDP ratios (2013 figures) of Greece 180%, Italy 133%, Portugal 129%, Ireland 124% and Cyprus 112%, remain a cause of concern, especially as some of these countries are experiencing continuing rates of increase in debt in excess of their rate of economic growth i.e. these debt ratios are likely to continue to deteriorate. Any sharp downturn in economic growth would make these countries particularly vulnerable to a new bout of sovereign debt crisis.

**Greece:** the general election due to take place on 25 January 2015 is likely to bring a political party to power which is anti EU and anti austerity. However, if this eventually results in Greece leaving the Euro, it is unlikely that this will directly destabilise the Euro zone as the EU has put in place adequate firewalls to contain the immediate impact. However, the indirect effects of strengthening of anti EU and anti austerity political parties throughout the EU are much more difficult to quantify. There are particular concerns as to whether democratically elected governments will lose the support of electorates suffering under EZ imposed austerity programmes, especially in countries which have high unemployment rates. There are also major concerns as to whether the governments of France and Italy will effectively implement austerity programmes and undertake overdue reforms to improve national competitiveness. These countries already have political parties with major electoral support for anti EU and anti austerity policies. Any loss of market confidence in either of the two largest Euro zone economies after Germany would present a huge challenge to the resources of the ECB to defend their debt.

**USA.** The US Federal Reserve ended its monthly asset purchases in October 2014. GDP growth rates (annualised) for Q2 and Q3 of 4.6% and 5.0% hold great promise for strong growth going forward. Forecasters are confident that interest rates in America will have risen by the middle of 2015.

**China.** Government action in 2014 to stimulate the economy appeared to be putting the target of 7.5% growth within achievable reach but recent data has indicated a marginally lower outturn for 2014, which would be the lowest rate of growth for many years. There are also concerns that the Chinese

leadership has only started to address an unbalanced economy which is heavily dependent on new investment expenditure, and for a potential bubble in the property sector to burst, as it did in Japan in the 1990s, with its consequent impact on the financial health of the banking sector. There are also concerns around the potential size, and dubious creditworthiness, of some bank lending to local government organisations and major corporates. This primarily occurred during the government promoted expansion of credit, which was aimed at protecting the overall rate of growth in the economy after the Lehmans crisis.

**Japan.** Japan is causing considerable concern as the increase in sales tax in April 2014 has suppressed consumer expenditure and growth to the extent that it has slipped back into recession in Q2 and Q3. The Japanese government already has the highest debt to GDP ratio in the world.

### **Capita Asset Services Forward View**

Economic forecasting remains difficult with so many external influences weighing on the UK. Our Bank Rate forecasts, (and also MPC decisions), will be liable to further amendment depending on how economic data transpires over 2015. Forecasts for average earnings beyond the three year time horizon will be heavily dependent on economic and political developments. Major volatility in bond yields is likely to endure as investor fears and confidence ebb and flow between favouring more risky assets i.e. equities, or the safe haven of bonds.

The overall longer run trend is for gilt yields and PWLB rates to rise, due to the high volume of gilt issuance in the UK, and of bond issuance in other major western countries. Increasing investor confidence in eventual world economic recovery is also likely to compound this effect as recovery will encourage investors to switch from bonds to equities.

The overall balance of risks to economic recovery in the UK is currently evenly spread. Only time will tell just how long this current period of strong economic growth will last; it also remains exposed to vulnerabilities in a number of key areas.

The interest rate forecasts in this report are based on an initial assumption that there will not be a major resurgence of the EZ debt crisis. There is an increased risk that Greece could end up leaving the Euro but if this happens, the EZ now has sufficient firewalls in place such that a Greek exit would have little immediate direct impact on the rest of the EZ and the Euro. It is therefore expected that there will be an overall managed, albeit painful and difficult, resolution of any EZ debt crisis that may occur where EZ institutions and governments eventually do what is necessary - but only when all else has been tried and failed. Under this assumed scenario, growth within the EZ will be weak at best for the next couple of years with some EZ countries experiencing low or negative growth, which will, over that time period, see an

increase in total government debt to GDP ratios. There is a significant danger that these ratios could rise to the point where markets lose confidence in the financial viability of one, or more, countries, especially if growth disappoints and / or efforts to reduce government deficits fail to deliver the necessary reductions. However, it is impossible to forecast whether any individual country will lose such confidence, or when, and so precipitate a sharp resurgence of the EZ debt crisis. While the ECB has adequate resources to manage a debt crisis in a small EZ country, if one, or more, of the larger countries were to experience a major crisis of market confidence, this would present a serious challenge to the ECB and to EZ politicians.

Downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- Geopolitical risks in Eastern Europe, the Middle East and Asia, increasing safe haven flows.
- UK strong economic growth is weaker than we currently anticipate.
- Weak growth or recession in the UK's main trading partners - the EU, US and China.
- A resurgence of the Eurozone sovereign debt crisis.
- Recapitalisation of European banks requiring more government financial support.
- Monetary policy action failing to stimulate sustainable growth and to combat the threat of deflation in western economies, especially the Eurozone and Japan.

The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates include: -

- An adverse reaction by financial markets to the result of the UK general election in May 2015 and the economic and debt management policies adopted by the new government
- ECB either failing to carry through on recent statements that it will soon start quantitative easing (purchase of government debt) or severely disappointing financial markets with embarking on only a token programme of minimal purchases which are unlikely to have much impact, if any, on stimulating growth in the EZ.
- The commencement by the US Federal Reserve of increases in the central rate in 2015 causing a fundamental reassessment by investors of the relative risks of holding bonds as opposed to equities, leading to a sudden flight from bonds to equities.

- A surge in investor confidence that a return to robust world economic growth is imminent, causing a flow of funds out of bonds into equities.
- UK inflation returning to significantly higher levels than in the wider EU and US, causing an increase in the inflation premium inherent to gilt yields

## Appendix 6 Specified and Non-specified Investments

All specified and non-specified Investments will be:

Subject to the sovereign, group and counterparty exposure limits identified in the Annual Investment Strategy.

Subject to the duration limit recommended by Capita (**+3 months for UK Financial Institutions** at the time each investment is placed.

Subject to a maximum of 60% of core funds, in aggregate, being held in non-specified investments at any one time.

Sterling denominated.

**Specified Investments** (maturities up to 1 year):

Investment	Minimum Credit Criteria
UK Debt Management Agency Deposit Facility	UK Sovereign AA-
Term deposits - UK local authorities	UK Sovereign AA-
Term deposits - UK nationalised and part nationalised banks	UK Sovereign AA-
Term deposits - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A-, F1 or Green <b>excluding CDS</b>
Certificates of deposit - UK nationalised and part nationalised banks	UK Sovereign AA-
Certificates of deposit - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A-, F1, or Green <b>excluding CDS</b>
UK Treasury Bills	UK Sovereign AA-
UK Government Gilts	UK Sovereign AA-
Bonds issued by multi-lateral development banks	AAA
Sovereign bond issues (other than the UK govt)	AAA

<b>Collective Investment Schemes structured as Open Ended Investment Companies (OEICs):</b>	
1. Money Market Funds	Moody's AAAmf, Fitch AAAmmf, Standard and Poor's AAAM
2. Government Liquidity Funds	AAA
3. Enhanced Cash Funds	AAA
4. Bond Funds excluding corporate bonds	AAA
5. Gilt Funds	AAA
6. Equity Funds	AAA
7. Property Funds	AAA

**Non-specified Investments** (maturities in excess of 1 year and any maturity if not included above):

<b>Investment</b>	<b>Minimum Credit Criteria</b>	<b>Max duration to maturity</b>
Fixed term deposits with variable rate and variable maturities (structured deposits) - UK nationalised and part nationalised banks	UK Sovereign AA-	2 years
Fixed term deposits with variable rate and variable maturities (structured deposits) - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A-, F1 (Green)	2 years
Term deposits - local authorities	UK Sovereign AA-	2 years
Term deposits - UK nationalised and part nationalised banks	UK Sovereign AA-	2 years
Term deposits - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A-, F1(Green)	2 years
Certificates of deposit - UK nationalised and part nationalised banks	UK Sovereign AA-	2 years
Certificates of deposit - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A- F1 (Green)	2 years

**Annex 3**

Commercial paper - UK nationalised and part nationalised banks	UK Sovereign AA-	2 years
Commercial paper - banks and building societies	UK / Non-UK Sovereign AA-. Counterparty A-, F1 (Green)	2 years
Floating rate notes issued by multilateral development banks	AAA	5 years
Bonds issued by multilateral development banks	AAA	5 years
Sovereign bond issues (other than the UK Government)	AAA	5 years
UK Government Gilts	UK Sovereign AA-	Max of 25% 5 years
UK Government Gilts	UK Sovereign AA-	Max of 25% 10 years

**Accounting treatment of investments**

The accounting treatment may differ from the underlying cash transactions arising from investment decisions made by this Council. To ensure that the Council is protected from any adverse revenue impact, which may arise from these differences, we will review the accounting implications of new transactions before they are undertaken.

**Appendix 7      Approved countries for investments**

All counterparties in addition to meeting the minimum credit criteria specified in the Annual Investment Strategy must be regulated by a sovereign rated as a minimum AA- by each of the three rating agencies (Fitch, Moody's and Standard and Poor's).

This list will be reviewed and amended if appropriate on a weekly basis by the Director of Finance and Transformation.

As of 31 December 2014 sovereigns meeting the above requirement were:

AAA	Australia Canada Denmark Germany Luxembourg Norway Singapore Sweden Switzerland
AA+	Finland Netherlands Hong Kong UK USA
AA	Abu Dhabi (UAE) France Qatar
AA-	Belgium Saudi Arabia

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### CABINET

03 February 2015

#### Report of the Director of Finance & Transformation

#### Part 1- Public

#### Matters for Recommendation to Council

### 1 UPDATE OF ANTI-FRAUD POLICIES

#### Summary

This report informs Members of the outcome of a review of the Anti-Fraud Policies of the Council reported to the Audit Committee on 26 January 2015 and Overview and Scrutiny Committee on 27 January 2015. The review has identified that some minor changes are required and recommends that these changes are adopted.

#### 1.1 Introduction

1.1.1 As part of the overall Governance process the Audit Committee undertakes an annual review of the Anti-Fraud Policies. The outcome of this review is also considered by the Overview and Scrutiny Committee. Following the annual review, the policies require adoption by full Council via Cabinet.

#### 1.2 Update

1.2.1 The Policies have been reviewed by both Committees and any additional amendments requested by these committees will be notified to Cabinet at this meeting.

1.2.2 The changes to the policies proposed by officers are minor, reflecting changes in the officers to whom referrals should be made and the removal of references to the Audit Commission due to their pending abolition. Finally a paragraph relating to quarterly staff updates has been removed from the Housing & Council Tax Benefit Anti-Fraud Policy as a quarterly update is now issued to the Financial Services Management Team detailing team performance in relation to all areas of fraud. This is then disseminated to all finance staff.

1.2.3 Members are requested to refer to the report to the meeting of the Audit Committee of 26 January 2015 for specific details of the changes made to the individual policies.

#### 1.3 Legal Implications

1.3.1 These policies are not mandatory but do comply with best practice and refer to the relevant legislation where appropriate.

## **1.4 Financial and Value for Money Considerations**

- 1.4.1 Fraud prevention and detection is an area subject to central government focus with initiatives such as Protecting the Public Purse, National Fraud Initiative and Fighting Fraud Locally maintaining a high profile. The message coming from these initiatives is that effective fraud prevention minimises losses to organisations through fraud.
- 1.4.2 These policies comply with recognised best practice and reinforce the zero tolerance stance of the Council towards fraud.

## **1.5 Risk Assessment**

- 1.5.1 The policies reflect best practice and the culture of the Council is aimed at minimising the risk of fraud. The policies are supported by the internal control mechanisms in place and form part of the overall control environment of the Council.

## **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 Cabinet are asked to recommend that Council approve the following policies:
- Anti-Fraud & Corruption Policy
  - Housing & Council Tax Benefit Anti-Fraud Policy
  - Council Tax Reduction, Discounts & Exemptions Anti-Fraud Policy

Background papers:

contact: James Larkin

Nil

Sharon Shelton  
Director of Finance & Transformation

## TONBRIDGE & MALLING BOROUGH COUNCIL

### FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

07 January 2015

#### Report of the Director of Finance and Transformation

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Council Decision

### 1 POLICY IN RESPECT OF DISCRETIONARY COUNCIL TAX AWARDS

Members are asked to consider a draft policy under s.13A of the Local Government Finance Act 1992, whereby a local authority has the power to reduce the amount of Council Tax due 'as it sees fit.'

#### 1.1 Introduction

1.1.1 Under s.13A of the Local Government Finance Act 1992, a local authority has the power to reduce the amount of Council Tax due 'as it sees fit.' This section (as amended by the Local Government Finance Act 2012) also allows a local authority to create a 'scheme' to reduce the Council Tax for persons or a class of persons that it considers being in financial need.

1.1.2 There is no statutory requirement to set a policy; but the Council still has an obligation to consider 'applications' in the absence of a policy. Management Team are of the view that in order to ensure that any such applications are dealt with consistently and equitably, it is appropriate for Members to agree a policy.

#### 1.2 Council Tax 'Section 13A' Discretionary Relief Policy

1.2.1 A draft policy is attached at **[Annex 1]** for Members' consideration.

1.2.2 As Members will note, it is proposed that applications will only be granted in **exceptional or unforeseen circumstances** that threaten a taxpayer's ability to discharge their liability for council tax and may threaten their ability to stay in their home. I would expect to see, as a pre-requisite, that other eligible discounts, reliefs and exemptions have been considered and exhausted.

1.2.3 All applications will be considered on their own merits, whilst having regard to this policy. Members will note that I propose that decisions on eligibility (or not) for an award will normally be delegated to me (or an officer nominated by me). This is consistent with the arrangements for the award of Discretionary Housing Payments.

### **1.3 Legal Implications**

- 1.3.1 A local authority has the power to reduce the amount of Council Tax due under s.13A of the Local Government Finance Act 1992 and therefore has an obligation to consider any requests.

### **1.4 Financial and Value for Money Considerations**

- 1.4.1 The cost of any reduction awarded under Section 13A(1)(c) must be met by Tonbridge and Malling Borough Council. Therefore, any awards made will have an impact on the Council's general fund budget. Numbers of applications and the costs associated with any reliefs awarded (if any) will be monitored and reported to Members as appropriate.

### **1.5 Risk Assessment**

- 1.5.1 Although there is no statutory obligation to set a policy, there are risks of not having a policy. In the absence of a policy, it will be more difficult to consider applications that are received consistently and equitably and this could lead to external challenge.
- 1.5.2 Regardless of whether we have a policy or not, it is not possible to forecast the numbers of applications and the likely cost to the authority should any applications be successful.

### **1.6 Equality Impact Assessment**

- 1.6.1 Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact should not vary between groups of people.
- 1.6.2 The council has circa 50,000 council tax payers. All groups of taxpayers have equal access to apply for relief through this policy.
- 1.6.3 The aim is to use the powers to assist council taxpayers in exceptional cases where they may still suffer financial hardship despite being in receipt of the maximum amount of discounts and exemptions due to them, and have exhausted all other reasonable steps to mitigate the situation. The desired outcome is the prevention of financial hardship arising from liability for council tax.
- 1.6.4 We shall monitor this by keeping a record of applications and decisions against the protected groups.

**1.7 Policy Considerations**

1.7.1 Customer Contact

1.7.2 Equalities/Diversity

**1.8 Recommendations**

1.8.1 Members are **REQUESTED** to **RECOMMEND** to Cabinet to approve the s13a Policy

Background papers:

Nil

contact: Mike Bytheway

017320876083

mike.bytheway@tmbs.gov.uk

Sharon Shelton

Director of Finance and Transformation

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## Council Tax – ‘Section 13A’ Discretionary Relief Awards

### Policy Document

#### Introduction

1. Under s.13A of the Local Government Finance Act 1992 a local authority has the power to reduce the amount of Council Tax due ‘as it sees fit.’ This section (as amended by the Local Government Finance Act 2012) also allows a local authority to create a ‘scheme’ to reduce the Council Tax for persons or a class of persons that it considers being in financial need.
2. The cost of any reduction awarded under Section 13A(1)(c) must be met in full by Tonbridge and Malling Borough Council. Decisions whether to award a reduction under Section 13A(1)(c) will be on a case by case basis.
3. Applications will only be granted in exceptional or unforeseen circumstances that threaten a taxpayer’s ability to discharge their liability for council tax and may threaten their ability to stay in their home. It is a pre-requisite that other eligible discounts, reliefs and exemptions have been considered and exhausted. In these circumstances, Tonbridge and Malling Borough Council will give consideration to reducing Council Tax liability for any applicant within the local area.
4. From time to time, national schemes may be introduced by Government in response to events or natural disasters, such as flooding. In these cases, funding is normally met in full by Government and such schemes will be administered in accordance with instructions and guidance set out by Government.

#### Application Process

5. As the discretion under s.13A is very wide there is no formal application process to be followed and there is no statutory necessity to complete a formal application form. In exercising its discretion, Tonbridge & Malling Borough Council shall have regard to this policy document and the considerations set out above.
6. An application for a reduction of Council Tax liability can be made by the Council Tax payer, an appointee or an authorised third party.
7. Applications must be made in writing and be accompanied by the following;
  - a) The exceptional circumstances for which the reduction is being requested including any hardship or personal circumstances relating to the application;
  - b) A full income and expenditure breakdown for the applicant and all other persons residing in the property. This can either be in the form of an ‘income and expenditure’ form for Council Tax or a similar form that is used for Housing Benefit Overpayments or by advice agencies;

- c) Details of the amount of reduction being requested and the period of time it is being requested for;
  - d) What other steps have been taken to meet, or mitigate, the council tax liability (e.g applying for other discounts or reductions)
8. Tonbridge and Malling Borough Council may request evidence that is relevant to the application. No costs will be borne by Tonbridge and Malling Borough Council in the provision of this request for evidence.

#### Consideration of Applications

9. As outlined above, in exercising its discretion, Tonbridge & Malling Borough Council shall have regard to this policy document and the considerations set out within it.
10. This is not to say that an application which appears to comply with the policy will necessarily be granted or one that does not will necessarily be refused. Tonbridge & Malling Borough Council will ensure that each application is considered on its own merits, and this policy is intended to act as a guide rather than a 'hard and fast' rule. That said, it will not be possible to consider the application without a statement of reasons for hardship and a financial statement.
11. Applications will be considered within 21 working days of receipt of the application and all supporting information being received and Tonbridge & Malling Borough Council will notify the applicant should there be a delay in processing the application.
12. Decisions on eligibility (or not) for an award will normally be made by the Director of Finance and Transformation, or an officer delegated by her within the Council's Constitution.
13. The applicant will be notified of the decision in writing and where the reduction is refused or not fully awarded, an explanation of the reasons why will be given.
14. Applications where the applicant has failed to provide information within the timescales provided will be refused.
15. When the application is received, careful consideration must be made to the reasons for financial hardship. There must be clear evidence of hardship or personal circumstance that justifies a reduction in Council Tax liability, the following will be considered before awarding any reduction;
- a) The applicant must demonstrate in their application that they have taken all reasonable steps to resolve their own situation prior to making an application.
  - b) Income and allowable expenses; reference can be made to the National Debtline budget figures which give a guidance on how much should be allowed for day to day living expenses. If these seem unnecessarily high, further information may be sought as there may be a reason for such high expenditure.
  - c) Luxuries and 'lifestyle' choices; this can include taking out of the calculations any excessive commitments for non-basic items.

- d) Prospect of a change in the applicants circumstances; is the applicant able to work and likely to return to work?
- e) Whether the applicant has access to other assets that could be used to pay the Council Tax if there was a surplus income then it would be difficult to support the position that there is hardship.

16. Additional factors to be considered;

- i. Reasons for hardship? i.e. historical debt problems, sudden change in circumstances or a recent financial burden. If an applicant has had bereavement or life change such as divorce or separation, it could be considered that there are valid reasons that hardship is being experienced. However if there is evidence that a applicant has continued to seek credit beyond their means then it may be more appropriate to refer them for debt counselling than apply a s.13A reduction.
- ii. How has the applicant sought to relieve their financial hardship? – i.e. maximising income or seeking advice on debt management or working out a budget.
- iii. Will a discretionary award address the hardship or will it be a temporary solution to other ongoing issues? Whilst it could be beneficial to the applicant to relieve a financial burden in the short term, a s.13A reduction should never be viewed as an ongoing solution.
- iv. Is there any other assistance that can be offered – e.g. Discretionary Housing Payment or Council Tax Reduction?
- v. Are there any other methods of reducing financial hardship? Does the applicant have any other debts with the Council? If an applicant has a housing benefit overpayment or sales ledger debt, it may be possible to spread the payments over a longer period of time to ensure that the applicant is paying something towards all their debt.
- vi. Any issues of vulnerability.

Awards of Section 13A(1)(c)

- 17. We will normally only award Section 13A(1)(c) for the financial year that it is claimed.
- 18. The amount of reduction awarded will take into account the level of arrears or Council Tax charge and the extent to which the criteria or guidelines are met.
- 19. Applicants requesting a Section 13A(1)(c) reduction to be backdated i.e. for the previous year will be dealt with in the same way as applications for the current year and they will have to demonstrate that the financial hardship existed during the period requested.

20. Relief will be cancelled if;

- The applicant ceases to be the council taxpayer;
- The property becomes empty or becomes occupied, or all or part of the unoccupied area becomes occupied;
- The use of the property changes;
- The applicants financial circumstances change;
- The financial circumstances for an applicant changes.
- It is the responsibility of the applicant to advise us of any changes.

21. If a reduction has been awarded as a result of a false or fraudulent claim Tonbridge and Malling Borough Council reserves the right to withdraw the award granted and will consider prosecution if appropriate.

#### Appeals procedure

22. There is no statutory right of appeal against a decision whether to award a Section 13A(1)(c) reduction; however, Tonbridge & Malling Borough Council does recognise that applicants should be entitled to have a decision reviewed objectively, if they are dissatisfied with the outcome.

23. Appeals may only be made by the original applicant. The applicant may appoint a third party to act on their behalf and in such cases we will require written authorisation from the appellant.

24. Applicants will be notified of the appeals process in writing at the time that they are notified of the outcome of their application.

25. Appeals must be in writing and include the reasons why it is believed the decision should be amended and include any new or additional information relevant to the decision making process.

26. Appeals against decisions to award a Section 13A(1)(c) reduction will be considered by a different Officer than the one who made the original decision.

27. After it has been reviewed, the appellant can appeal to the Valuation Tribunal at the following address;

The Valuation Tribunal Service  
2<sup>nd</sup> Floor  
120 Leman Street  
London E1 8EU

28. Submitting an appeal does not affect the appellant's legal rights to challenge a decision made by the Council through the Judicial Review process.

29. An appeal must be made within four weeks of the issue of the letter notifying them of

the decision. Any appeals received outside of the four week period will only be considered if there are exceptional circumstances that led to the delay in submitting the appeal.

- 30. The applicant will be notified whether an appeal is refused or accepted in writing within 21 days.
- 31. If we have requested further evidence from the applicant to support the appeal and this has not been received within the specified time given, the appeal will be refused on the grounds of lack of supporting evidence.

Approved by Full Council: .....

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### COUNCIL

17 February 2015

#### Report of the Director of Central Services

#### Part 1- Public

#### Matters For Decision

#### 1 CHANGES TO CONSTITUTION

**This report sets out proposals for re-alignment of responsibilities relating to corporate governance and changes to the Constitution to reflect changes in working practises relating to procurement and delivery of summonses for Council meetings.**

#### 1.1 Introduction – Corporate Governance

- 1.1.1 Committee responsibility for overseeing Corporate Governance and the underlying supporting documentation has developed piecemeal as various requirements have been introduced to comply with best practice. For example, when the Benefit Fraud Section was required to report on performance, an annual business plan was produced which has remained the responsibility of the Finance, Innovation and Property Advisory Board.
- 1.1.2 Various other supporting documents are required to be considered by Audit Committee, General Purposes Committee, Cabinet and Council before being adopted. As a result the review of strategies and codes supporting Corporate Governance can take a number of different routes and take an extended amount of time to reach final approval.
- 1.1.3 These differences in responsibilities were due to the fact that they were introduced prior to the formation of the Audit Committee and responsibility did not change when this Committee was formed.

#### 1.2 CIPFA Guidance

- 1.2.1 The most recent guidance issued by CIPFA on the role of the Audit Committee is entitled “Audit Committees – Practical Guidance for Local Authorities and Police 2013. The core principles remain the same as previous guidance but there is a revised position statement: -

- “The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity

of the financial reporting and annual governance processes. By overseeing internal and external audit it makes an important contribution to ensuring that effective assurance arrangements are in place.”

1.2.2 There has also been an additional core function added:-

- “Effectiveness of the control environment, including arrangements for value for money and countering fraud”

1.2.3 The guidance also identifies that an Audit Committee should seek to add value to the organisation and this is demonstrated by the following: -

- The influential audit committee supports: -
- Good governance and decision making
- Effective risk management
- Improving value for money
- Achievement of goals
- Improving public reporting and accountability
- Embedding ethical values and countering fraud
- Effective audit and assurance
- Effective internal controls

### **1.3 Proposed Way Forward**

1.3.1 In line with the guidance it is appropriate to consider changing the constitution to give the Audit Committee overall responsibility for Corporate Governance matters and supporting documents by carrying out the annual reviews and proposing endorsement by Council via Cabinet.

1.3.2 If agreed these changes would ensure compliance with the new CIPFA guidance as well as streamline the process for reviewing Corporate Governance documentation. All of these documents would require formal approval by Council via Cabinet ensuring that the democratic process is intact.

1.3.3 These changes have already been considered by Management Team and were given approval.

## **1.4 Current position on Contracts Procedure Rules (“CPR”):**

- 1.4.1 The Contract Procedure Rules are contained in part 4 of the Constitution and govern the procedures and working practises which must be followed by officers when letting Council contracts.
- 1.4.2 Contract Procedure Rule 7 sets out the financial thresholds applying to different procurement procedures for the purchase of supplies, service or carrying out works. The Council’s current thresholds are set at £5,000 for competitive quotes and £75,000 for tenders. These thresholds have remained in place now for some years and it is recommended that the tendering threshold is increased.

## **1.5 The Proposed Changes to CPR:**

- 1.5.1 It is proposed that there be a single quote for purchases up to but not including £5,000 for service, supply and works contracts, at least 3 written quotes for such purchases between £5,000 and up to but not including £100,000 and at least three written tenders for such purchases between £100,000 and up to but not including the current EU threshold for supplies and service procurement. This will result in amendments to the table setting out financial thresholds for procurement procedure contained in CPR 7.4
- 1.5.2 In order to stimulate the local economy and to improve the sustainability of our contracts it is suggested that for competitive quotes and written tenders up to but not including the EU threshold for supplies/ services contracts for all types of purchase that at least one of the quotes/tenders should be from a local supplier where this is practicable. For these purposes a supplier will be deemed to be local where they have their principal place of business or an office in Kent. This will result in an amendment to CPR 7.4.
- 1.5.3 A minor change is proposed to the threshold in rule 8.3 for execution of Deeds from £75k to £100k to mirror the tendering threshold.
- 1.5.4 If the above changes are agreed consequential amendments will be required to the following rules:
- 1.5.5 CPR 11.1 to refer to the receipt of tenders at £100k or over instead of £75K:
- 1.5.6 CPR 13.7 to refer to waivers for contracts valued at £100k or over being reported to the next meeting of the Executive or Council instead of £75k
- 1.5.7 For consistency and ease of use of the CPR it is also suggested that the threshold for contract extensions in rule 14.2 and 14.3 be increased from £75k to £100k and also that the monitoring and reporting requirements for let contracts in rule 14.7 are also increased from £75k to £100k and that the threshold for the inclusion of standard contract clauses in rule 3.2 be amended from £75k to £100,000.
- 1.5.8 The changes proposed in this report make these rules more workable in practise.

## **1.6 Electronic communication of summonses**

**1.7** Members will be aware that amendments have recently been made to the Local Government Act 1972 to expressly permit the use of electronic communications in the sending of summonses for meetings. Under the new provisions, Members may receive summonses electronically where they have given their consent to it being sent by this method.

**1.7.1** In order to ensure that the Constitution reflects the changes to the 1972 Act, it is proposed to amend paragraph 4 of Part 1 of the Council and Committee Procedure Rules as follows

(a) Amend paragraph 4.3 so that it now reads ‘At least five clear days before a meeting, the Chief Executive will send a summons to every member of the Council by an appropriate method in accordance with the provisions of the Local Government Act 1972’

(b) Delete paragraph 4.5 (which currently reads ‘The Chief Executive may agree with a member to send the summons and accompanying reports to him/ her in such format, to such address and by such other means as may be agreed’).

## **1.8 Legal Implications**

**1.8.1** The CIPFA Auditing Standards are recognised as best practice by the Accounts and Audit Regulations and no other legal issues have been identified.

**1.8.2** Articles 15 in part 2 of the Constitution sets out the procedure for review and revision of the Constitution. Changes to the Constitution may only be approved by full Council after consideration of a report on the proposal from the Council’s Monitoring Officer.

## **1.9 Financial and Value for Money Considerations**

**1.9.1** No significant financial considerations have been identified although these recommendations would streamline the Corporate Governance approval process and improve working practises in respect of procurement.

## **1.10 Risk Assessment**

**1.10.1** No risk issues have been identified.

## **1.11 Equality Impact Assessment**

**1.11.1** 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.

## 1.12 Recommendations

- 1.12.1 Members are asked to authorise the Monitoring Officer to make the following amendments to the constitution -
- 1.12.2 Deletion of the responsibilities of General Purposes Committee in Part 3 – Page 6 “Audit: Overview of internal and external audit”.
- 1.12.3 Revision of Part 3 - page 9 the function of the Audit Committee to be changed to reflect the position statement of CIPFA as set out in paragraph 1.2.1. of this report.
- 1.12.4 Deletion of Part 3 – Page 32 paragraph 7 relating to General Purposes Committee “To consider initially general and specific audit reports from the Audit Commission, the District Auditor and the Director of Finance, to make recommendations to Council for future action and to monitor the Council’s implementation of those recommendations.” This responsibility to be transferred to the Audit Committee.
- 1.12.5 Amend Part 3 – Page 33 paragraph 1 so as to change Director of Finance’s annual report to Chief Internal Auditor’s annual report.
- 1.12.6 Amendment of Part 3 – Page 34 paragraphs 12, 13, 14 and 15 to be removed from the Corporate Governance Framework and to be included under Audit Committee responsibilities.
- 1.12.7 Under Part 3- Page 73 the reference to the Finance and Property Advisory Board responsibility for Benefit Fraud Investigation to be deleted and the core function as set out in paragraph 1.2.2 to be added to the responsibilities of the Audit Committee.
- 1.12.8 Under part 3 – page 32 delete paragraph 9 regarding the responsibility of the General Purposes Committee “To approve the Council’s statement of accounts, income and expenditure account and balance sheet.”
- 1.12.9 To amend Part 4 of the Constitution to give effect to the changes outlined in the report by amending CPR 3.2, 7.4, 8.3, 11.1, 13.7, 14.2 and 14.3 and 14.7 to change those thresholds which are currently set at £75k to refer to £100k;and
- 1.12.10 To amend rule 7.4 by changing the procedure to be used in column three for contracts valued at £5k up to but not including £75,000 to read “at least three written quotes in advance, one to be from a local supplier where possible” and also amending the procedure for contracts valued at £75k up to but not including £172,514 to read “At least three written tenders in advance following advertisement by public notice, one to be from a local supplier where possible. In addition a new note will be added to each such place to explain the meaning of local by adding “\*\*\*For these purposes a local supplier means a supplier which has its principal place of business or an office in Kent.”

1.12.11 Amend paragraph 4.3 of Part 4 of the Constitution (Council and Committee Procedure Rules) so that it reads 'At least five clear days before a meeting, the Chief Executive will send a summons to every member of the Council by an appropriate method in accordance with the provisions of the Local Government Act 1972'

1.12.12 Delete paragraph 4.5 of Part 4 (Council and Committee Procedure Rules).

Background papers:

CIPFA Auditing Standards

contact: David Buckley  
Chief Internal Auditor  
Lynn Francis  
Principal Solicitor

Adrian Stanfield  
Director of Central Services  
Monitoring Officer

## TONBRIDGE & MALLING BOROUGH COUNCIL

### COUNCIL

17 February 2015

#### Report of the Director of Central Services

#### Part 1- Public

#### Matters For Decision

#### 1 APPOINTMENTS TO OUTSIDE BODIES

To consider the re-nomination of a representative to serve as a Trustee of the Tonbridge United Charity for a further term of office.

#### 1.1 Background

1.1.1 The term of office of Councillor R Lancaster as a Nominative Trustee of the Tonbridge United Charity expired in July 2014. The Clerk to the Trustees has invited the Council to consider his reappointment for a further four year term to July 2018. Councillor Lancaster has indicated his willingness to continue to serve in this capacity.

#### 1.2 Legal Implications

1.2.1 None.

#### 1.3 Financial and Value for Money Considerations

1.3.1 Not applicable.

#### 1.4 Risk Assessment

1.4.1 Not applicable.

#### 1.5 Equality Impact Assessment

1.6 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 RECOMMENDED that the Council consider the re-nomination of Councillor Lancaster as a Trustee for a further four year term of office.

Background papers:  
Letter dated 8 January 2015 from Clerk to Trustees

contact: Claire Fox

Adrian Stanfield  
Director of Central Services