



TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
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28 September 2018

To: MEMBERS OF THE GENERAL PURPOSES COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the General Purposes Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Monday, 8th October, 2018 commencing at 7.45 pm or on the rising of the Electoral Review Working Group, whichever is the later.

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

PART 1 - PUBLIC

- | | | |
|----|--------------------------|-------|
| 1. | Apologies for absence | 5 - 6 |
| 2. | Declarations of interest | 7 - 8 |

3. Minutes 9 - 12

To confirm as a correct record the Minutes of the meeting of General Purposes Committee held on 25 June 2018

Decisions to be taken under Delegated Powers

4. Review of Polling Districts and Polling Places 13 - 22

A meeting of the Electoral Review Working Group (ERWG) is scheduled to take place immediately before the meeting of General Purposes Committee to consider the timetable and initial proposals for a review of polling districts and polling places in the Borough, and the launch of these in a public consultation. A verbal update will be given at the meeting on any comments arising from the ERWG meeting.

5. Homeworking Policy and Procedure 23 - 58

The report presents an updated Homeworking Policy.

6. Amendment to the Smoking Policy 59 - 64

Consideration of amendment of the policy to include reference to e-cigarette/vaping.

Matters submitted for Information

7. Review of Dispensation - Councillor Mark Davis 65 - 70

The report asks Members to note a review of a dispensation granted in October 2016 to enable Councillor Mark Davis to participate in meetings of the Area Planning Committees, the Planning and Transportation Advisory Board and other meetings where the Local Plan is under consideration.

8. Urgent Items 71 - 72

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

Matters for consideration in Private

9. Exclusion of Press and Public 73 - 74

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

PART 2 - PRIVATE

Decisions to be taken under Delegated Powers

10. Establishment Changes 75 - 88

LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual

The report sets out for Members' approval a number of establishment changes recommended by the Management Team.

11. Urgent Items 89 - 90

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr O C Baldock (Chairman)
Cllr L J O'Toole (Vice-Chairman)

Cllr M A C Balfour
Cllr Mrs S Bell
Cllr P F Bolt
Cllr M A Coffin
Cllr Mrs M F Heslop
Cllr N J Heslop

Cllr B J Luker
Cllr D Markham
Cllr S C Perry
Cllr R V Roud
Cllr C P Smith
Cllr M Taylor

Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

Monday, 25th June, 2018

Present: Cllr O C Baldock (Chairman), Cllr L J O'Toole (Vice-Chairman), Cllr P F Bolt, Cllr M A Coffin, Cllr Mrs M F Heslop, Cllr N J Heslop, Cllr B J Luker, Cllr R V Roud, Cllr C P Smith and Cllr M Taylor

Councillors Mrs J A Anderson, Mrs S M Barker, M C Base, Mrs P A Bates, R P Betts, T I B Cannon, D J Cure, D A S Davis, S R J Jessel, Mrs F A Kemp, D Lettington, Mrs S L Luck, P J Montague, Mrs A S Oakley, M Parry-Waller, M R Rhodes, H S Rogers, Miss J L Sergison, Miss S O Shrubsole, A K Sullivan, Miss G E Thomas and T C Walker were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors M A C Balfour, Mrs S Bell, D Markham and S C Perry

PART 1 - PUBLIC

GP 18/9 DECLARATIONS OF INTEREST

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

GP 18/10 MINUTES

RESOLVED: That the Minutes of the meeting of the General Purposes Committee held on 29 January 2018 be approved as a correct record and signed by the Chairman.

MATTERS FOR RECOMMENDATION TO THE COUNCIL

GP 18/11 HUMAN RESOURCES STRATEGY UPDATE

The report of the Director of Central Services reminded Members that the Human Resources Strategy (HR Strategy) provided an overview of the Council's approach to managing its employees and that it was updated annually to identify "improvement priorities". The updated HR Strategy, set out at Annex 1 to the report, listed progress against the improvement priorities identified for April 2017 to March 2018, identified actions to be implemented between April 2018 and March 2019 and reported the outcome of equality monitoring of staffing issues in 2017/18 required under the Equality Act 2010.

RECOMMENDED: That the outcomes of the equality monitoring set out in Section 4 of the HR Strategy be noted and the actions listed in

Section 5 of the strategy (Workforce Development Plan April 2018 – March 2019) be commended for adoption by the Council.

***Referred to Council**

**GP 18/12 INVESTIGATORY POWERS COMMISSIONER'S OFFICE
INSPECTION REPORT - THE REGULATION OF INVESTIGATORY
POWERS ACT 2000**

The Director of Central Services advised that, in order to ensure that public authorities carried out covert activities in a lawful manner, the Investigatory Powers Commissioner's Office (IPCO) conducted regular reviews of the Council's policies and procedures. Annex 1 to the report set out details of a recent, telephone-based, review undertaken by the Assistant Surveillance Commissioner, His Honour Brian Barker. The Assistant Surveillance Commissioner's report had recommended a number of minor amendments to the Corporate Surveillance Guidance, the inclusion of advice on the use of social media and recognised the need to update officers and provide training as a priority.

RECOMMENDED: That

- (1) the Inspection report of the Assistant Surveillance Commissioner be noted; and
- (2) the revised Corporate Surveillance Guidance, set out in Annex 2 to the report, be commended for adoption by the Council.

***Referred to Council**

MATTERS SUBMITTED FOR INFORMATION

GP 18/13 HEALTH AND SAFETY ANNUAL REPORT 2017/18

Annex 1 to the report of the Director of Planning, Housing and Environmental Health set out the Annual Health and Safety Report 2017/18. Attention was drawn to the summary of key achievements in 2017/18, the establishment of a Corporate Health and Safety Group and to the key priorities for 2018/19.

RESOLVED: That the Annual Health and Safety Report 2017/18 be received and noted.

MATTERS FOR CONSIDERATION IN PRIVATE

GP 18/14 EXCLUSION OF PRESS AND PUBLIC

The Chairman moved, it was seconded and

RESOLVED: That as public discussion would disclose exempt information, the following matters be considered in private.

PART 2 - PRIVATE**DECISIONS TAKEN UNDER DELEGATED POWERS IN
ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE
CONSTITUTION****GP 18/15 ESTABLISHMENT CHANGES****(LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

The report of the Director of Central Services set out for approval a number of establishment changes arising from the ongoing operational management of the Council's services.

RESOLVED: That the proposals and establishment adjustments set out in the report be endorsed as follows:

- (1) the saving of £5,812 arising from the re-designation and re-grading of post DC0405 Head of Electoral and Democratic Services M5 to Head of Electoral Services M6 be ring fenced pending further adjustments to the Establishment in Central and Executive Services;
- (2) the options for a shared Business Rates resource, funded from the ring fenced saving approved at the General Purposes Committee on 29 January 2018, be explored with Gravesham Borough Council;
- (3) as previously endorsed by Management Team, a 12 month fixed term contract of Special Projects Officer scale 5/6 be created in the Revenue and Benefits Team with effect from 1 May 2018 funded from the Transformation Reserve;
- (4) Internal Auditor post DF0804 be re-designated and re-graded Senior Internal Auditor scale 6/SO (from Internal Auditor scale 2/6) with immediate effect;
- (5) Internal Auditor post DF0805 be deleted with immediate effect and replaced by a temporary staff provision; and
- (6) Fraud Officer post DF0602 scale 4/6 be deleted and replaced with a new Fraud/Audit Assistant post scale 2/4 37 hours per week, with immediate effect.

GP 18/16 WASTE AND STREET SCENE SERVICES**(LGA 1972 Sch 12A Paragraph 1 – Information relating to an individual)**

The report of the Director of Street Scene, Leisure and Technical Services set out details of a number of permanent and temporary staffing changes in the Waste and Street Scene Services to reflect the departure of the Head of Waste and Street Scene, the retendering of the Waste Contract and the on-going requirement to deliver the existing contract to an acceptable standard.

RESOLVED: That

- (1) a new post of Head of Street Scene and Leisure graded M4 be established with immediate effect;
- (2) the existing posts of Head of Leisure Services (DG0004) and Head of Waste and Street Scene (DG0006) be deleted from the establishment with immediate effect;
- (3) the existing holder of post DG0004 be transferred into the new post of Head of Street Scene and Leisure with immediate effect;
- (4) the temporary staffing arrangements approved by Management Team be noted; and
- (5) the longer term saving accruing from the proposals be ring-fenced to enable a further review of the staff structure in the future.

The meeting ended at 8.10 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

08 October 2018

Report of the Chief Executive

Part 1- Public

Delegated

1 REVIEW OF POLLING DISTRICTS AND POLLING PLACES

A meeting of ERWG is scheduled to take place immediately before this General Purposes meeting, to consider and agree the timetable and initial proposals for a review of polling districts and polling places in the Borough, and to the launch of these in a public consultation. A verbal update will be given at the meeting on any comments arising from the ERWG meeting.

1.1 Background

- 1.1.1 Under the Representation of the People Act 1983, the Council has a duty to divide the borough into polling districts and to designate a polling place for each district. It also has to keep these arrangements under review. The Electoral Registration and Administration Act 2013 introduced a change to the timing of compulsory reviews of UK Parliamentary polling districts and polling places. The next compulsory review must now be started and completed between 1 October 2018 and 31 January 2020 (inclusive).
- 1.1.2 The most recent review was completed in 2014, which considered the polling districts and polling places across the whole Borough. The process we are required to follow is broadly the same as in 2014.

1.2 Definitions

- 1.2.1 For the avoidance of doubt, it is important to note the following definitions:
 - 1) A **polling district** is a geographical sub-division of an electoral area, i.e. a UK Parliamentary constituency, a European Parliamentary electoral region, a ward or an electoral division. It is the responsibility of the Borough Council to divide its area into polling districts, and for keeping the polling districts under review.
 - 2) A **polling place** is a geographical area in which a polling station is located. There is no legal definition of what a polling place is, so the geographical area could be defined as tightly as a particular building or as widely as the entire polling district. However, Section 18B(4)(e) of the RPA 1983 states

that 'the polling place must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station'. It is usual practice, therefore, to designate a particular building or area as the polling place. It is the responsibility of the Borough Council to designate the polling places, and for keeping the polling places under review.

- 3) A **polling station** is the actual area where the process of voting takes place, and must be located within the polling place designated for the particular polling district. This is usually the room within a building, or a building within an area. The Returning Officer for the particular election must provide a sufficient number of polling stations, and allot the electors to those polling stations in such manner as he or she thinks the most convenient.

1.3 Process and timetable

1.3.1 The guidance issued by the Electoral Commission identifies that the Review must be completed between 1 October 2018 and 31 January 2020. During that period, there are no statutory limits on the length of consultation nor on the duration of the review as a whole. However, in determining the timetable below I have been mindful of the other competing priorities within Electoral Services, namely:

- The timing of the canvass, completing during November 2018 with the publication of the register on 1st December 2018.
- The need to prepare for and ensure new arrangements are in place ready to conduct the Borough and Parish Elections May 2019.
- The process to approve changes to polling districts and polling places.

1.3.2 In light of this, the timetable for this Review is as follows:

- 1) Prior to this meeting, Officers of the Council have undertaken some preliminary research.
- 2) On 1 October 2018, we published a statutory notice of review, which specifies that the review is commencing and where copies of the notices can be found.
- 3) Following consideration and approval by ERWG, the timetable and initial proposals will be considered and approved by the General Purposes committee on 8 October 2018.

- 4) Following approval by General Purposes, there will be a public consultation on these proposals. This will close on 31st December 2018, allowing for a 12-week consultation period.
- 5) The Electoral Review Working Group will consider any contributions made by correspondents at a meeting in January 2019
- 6) Final proposals will be approved at that meeting, for agreement by the General Purposes committee on 28 January 2019.
- 7) Full Council will accept and ratify the final proposals on 19 February 2019.
- 8) The new arrangements will come into force in time for the start of the May 2019 elections timetable.

1.4 The role of the Electoral Commission

1.4.1 The Electoral Commission has no role in the review process itself. However, it can consider comments if people do not think the review has met the reasonable requirements of electors or taken sufficient account of the needs of disabled electors.

1.4.2 The following people can appeal to The Commission:

- a parish council
- 30 or more registered electors
- any person who made comments during the review
- any non-electors who has expertise in access to premises or facilities for disabled people.

1.4.3 As a result, the Electoral Commission may direct the Council to alter polling arrangements arising from the review, and can make these alterations itself if the Council does not do so within two months.

1.4.4 Whilst it is unlikely that these steps will be necessary, it is important that the public consultation process is completed and that final boundaries take into account the views presented to this Group.

1.5 Legislative requirements and Electoral Commission guidance

1.5.1 The following legislative considerations must be taken into account when drawing up the proposed polling districts and polling places.

- 1) Each parish is to be a separate polling district, unless special circumstances apply.
- 2) The Council must designate a polling place for each polling district.

- 3) The polling place must be an area in the district, unless special circumstances apply.
- 4) The polling place must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station.
- 5) The Council must seek to ensure that all electors have such reasonable facilities for voting as are practicable in the circumstances.
- 6) The Council must seek to ensure that so far as is reasonable and practicable every polling place is accessible to electors who are disabled.

1.5.2 In addition, the Electoral Commission guidance indicates the following useful non-statutory guidelines:

- 1) Where possible, polling district boundaries should be co-terminus with existing parish ward or borough ward boundaries.
- 2) Where possible “natural” boundaries should be used, such as railways, major roads, waterways.
- 3) All properties in a minor road or estate should be in the same polling district.
- 4) Polling places should be “logical”; that is, electors should not have to pass another polling place to get to their own place, wherever possible.

1.6 Consultation

- 1.6.1 I propose to keep the existing polling arrangements where possible and to make minimal changes only where circumstances require, as set out below. The intention is not to make changes for change’s sake.
- 1.6.2 Comments during the consultation do not have to be restricted to alternative proposals; comments that support these initial proposals are welcome in order to receive a balance of opinions.
- 1.6.3 Throughout the review, all working papers, minutes of meetings, and correspondence will be available for public inspection at the Electoral Services Office. All items will be published when the review has been completed.
- 1.6.4 Once approved by General Purposes, the review documents will be published on our website at www.tmbc.gov.uk/pdr . This will include maps of the proposed Polling Districts, and allow consultees to comment directly online. Where responses are received in other formats (email, letter or telephone call), the details will be transposed onto the consultation portal by electoral services staff to allow final publication at the end of the consultation period.

1.7 Consultees

1.7.1 During the formal consultation period, we will contact the following to invite their comments on the proposed polling districts and polling places:

- 1) Borough councillors
- 2) County Councillors
- 3) Parish councils
- 4) Members of Parliament
- 5) Local political parties
- 6) Tonbridge & Malling Seniors Forum
- 7) Tonbridge & Malling District Partnership Group
- 8) Electors, by way of public notices and press releases
- 9) Managers or bookings clerks for current and proposed venues
- 10) Local groups with expertise in accessibility for people with disabilities, including Hi Kent, Kent Association for the Blind, Carers First, Headway, Scotts Project, and Age UK.

1.8 Use of schools

1.8.1 Members are asked to note that the (Acting) Returning Officer is entitled to use free of charge schools maintained or assisted by a local authority as well as those schools that receive grants made out of moneys provided by Parliament. This includes academies and free schools. However, where possible we do try to avoid the use of schools due to the disruption that is caused by their use – to children, staff and parents. In some cases, however, the use of school facilities is unavoidable.

1.9 Initial proposals

1.9.1 The initial proposals for polling districts and polling places are set out below. As noted above (paragraph 1.6.1), I recommend that the majority of polling districts and places remain unchanged from the previous review. All of the polling districts and polling places meet the guidelines set out in section 1.5.

1.9.2 Members are invited to note the following comments and changes to existing polling districts and polling places:

- 1) Polling places
I propose to retain the 'at or near' prefix for all polling places. This allows for changes at short notice (for example, if a polling venue is unavailable prior to an election) without the need to convene a Member meeting. Long-term changes would continue to be considered by this Group.

2) Wards

The wards are the wards that took effect from May 2015.

3) Chatham & Aylesford

The following table summarises the initial proposals for that part of the Chatham & Aylesford constituency which is within the Borough of Tonbridge and Malling.

Ward: Aylesford North & Walderslade

Polling district	Polling Place (at or near...)	Changes
CAA Aylesford North	Aylesford Community Centre	No changes
CAB Blue Bell Hill	Blue Bell Hill Village Hall	No changes
CAC Eccles	Eccles Church Hall	No changes
CAD Walderslade	Tunbury Hall	No changes

Ward: Aylesford South

Polling district	Polling Place (at or near...)	Changes
CBA Aylesford South	RBL Community Hall	No changes

Ward: Burham & Wouldham

Polling district	Polling Place (at or near...)	Changes
CCA Burham	Burham Old School Community Centre	No changes
CCB Wouldham	Wouldham Village Hall	Wouldham Primary School

Ward: Ditton

Polling district	Polling Place (at or near...)	Changes
CDA Ditton North	Cobdown Sports & Social Club	No changes
CDB Ditton South	Ditton Community Centre	No changes

Ward: Larkfield North

Polling district	Polling Place (at or near...)	Changes
CEA Larkfield North	Larkfield Village Hall	No changes

Ward: Larkfield South

Polling district	Polling Place (at or near...)	Changes
CFA Larkfield South	Church Farm Hall	No changes

Ward: Snodland East & Ham Hill

Polling district	Polling Place (at or near...)	Changes
CGA Snodland North East	Devonshire Rooms	No changes
CGB Snodland South	Holmesdale Technology	No changes

	College	
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Ward: **Snodland West & Holborough Lakes**

Polling district	Polling Place (at or near...)	Changes
CHA Snodland West & Holborough Lakes	Snodland Community Centre	No changes

4) Tonbridge & Malling

The following table summarises the initial proposals for that part of the Tonbridge & Malling constituency which is within the Borough of Tonbridge and Malling.

Ward: **Borough Green & Long Mill**

Polling district	Polling Place (at or near...)	Changes
TAA Borough Green	Borough Green Village Hall	Inspection not completed yet
TAB Platt	Platt Memorial Hall	No changes
TAC Plaxtol	Plaxtol Memorial Hall	No changes
TAD Shipbourne	Shipbourne Village Hall	No changes

Ward: **Cage Green**

Polling district	Polling Place (at or near...)	Changes
TBA Cage Green North	Hugh Christie Technology College	Inspection not completed yet
TBB Cage Green South	St Philip's Church	Inspection not completed yet

Ward: **Castle**

Polling district	Polling Place (at or near...)	Changes
TCA Castle North	YMCA Centre	Inspection not completed yet
TCB Castle South	Tonbridge Castle	Inspection not completed yet

Ward: **Downs & Mereworth**

Polling district	Polling Place (at or near...)	Changes
TDA Addington	Addington Village Hall	No changes
TDB Birling	Birling Village Hall	No changes
TDC Mereworth	Mereworth Village Hall	No changes
TDD Offham	Offham Village Hall	No changes
TDE Ryarsh	Ryarsh Village Hall	No changes
TDF Trottiscliffe	Trottiscliffe Village Hall	No changes
TDG West Peckham	West Peckham Village Hall	No changes

Ward: **East Malling**

Polling district	Polling Place (at or near...)	Changes
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TEA East Malling	East Malling Village Hall	No changes
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Ward: **Hadlow & East Peckham**

Polling district	Polling Place (at or near...)	Changes
TFA East Peckham	Curran Hall, East Peckham Methodist Church	No changes
TFB Golden Green	Golden Green Community Centre	Inspection not completed yet
TFC Hadlow	Hadlow Old School	Inspection not completed yet

Ward: **Higham**

Polling district	Polling Place (at or near...)	Changes
TGA Higham	Methodist Hall	No changes

Ward: **Hildenborough**

Polling district	Polling Place (at or near...)	Changes
THA Hildenborough North	St Johns Church Hall	No changes
THB Hildenborough South	Stocks Green CP School	No changes

Ward: **Judd**

Polling district	Polling Place (at or near...)	Changes
TJA Judd Central	St Stephens Church Centre	No changes
TJB Judd North	Teen & Twenty Club	Inspection not completed yet
TJC Judd South	West Kent College	No changes

Ward: **Kings Hill**

Polling district	Polling Place (at or near...)	Changes
TKA Kings Hill	Cricket Ground	No changes
TKB Kings Hill	Kings Hill Community Centre	No changes
TKC Mereworth Airfield	Kings Hill Community Centre	No changes

Ward: **Medway**

Polling district	Polling Place (at or near...)	Changes
TLA Medway North	Fisher Hall	No changes
TLB Medway South	Hillview School for Girls	Inspection not completed yet

Ward: **Trench**

Polling district	Polling Place (at or near...)	Changes
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TMA Trench	Six in One Community Centre	Inspection not completed yet
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Ward: **Vauxhall**

Polling district	Polling Place (at or near...)	Changes
TNA Vauxhall North	The New Telegraph Club	No changes
TNB Vauxhall South	Tonbridge Grammar School for Girls	Inspection not completed yet

Ward: **Wateringbury**

Polling district	Polling Place (at or near...)	Changes
TPA Wateringbury	Wateringbury Village Hall	No changes

Ward: **West Malling & Leybourne**

Polling district	Polling Place (at or near...)	Changes
TQA Leybourne Village	Leybourne Village Hall	No changes
TQB Leybourne Chase	Leybourne Chase Community Hall	No changes
TQC West Malling	West Malling CP School	Inspection not completed yet

Ward: **Wrotham, Ightham & Stansted**

Polling district	Polling Place (at or near...)	Changes
TRA Ightham	Ightham Village Hall	No changes
TRB Stansted	Stansted Village Hall	No changes
TRC Wrotham	St George's Hall	No changes

1.10 Legal Implications

1.10.1 The Representation of the People Act 1983 (as amended) requires borough councils to undertake reviews of polling districts and polling places at least every four years. The Electoral Registration and Administration Act 2013 introduced a change to the timing of compulsory reviews of UK Parliamentary polling districts and polling places. The next compulsory review must now be started and completed between 1 October 2018 and 31 January 2020 (inclusive).

1.11 Financial and Value for Money Considerations

1.11.1 The cost of this review will be met from existing budgets. Failure to correctly undertake this review could impose considerable financial penalties on the (Acting) Returning Officers due to problems at elections; this would trigger a series of events bringing cost and embarrassment to the Council.

1.12 Risk Assessment

- 1.12.1 The requirements of our electors are essential, and a failure to correctly undertake this review could result in disenfranchising electors, or making it more difficult for them to vote.
- 1.12.2 Any failure in the process or consideration of comments made during the consultation stage could result in the Electoral Commission over-ruling the decisions of the Council.

1.13 Equality Impact Assessment

- 1.13.1 The selection of polling places takes into account the needs of electors with disabilities and, as far as is reasonably practicable, efforts are made to ensure all eligible electors are able to access polling stations. Risk assessments of all polling places are being undertaken, and this includes a series of access questions. Presiding Officers at polling stations also provide feed-back on accessibility of polling stations at elections.

1.14 Recommendations

- 1.14.1 It is recommended that the timing of the review, including the public consultation and initial proposals be noted and approved to go ahead.

Background papers:

contact: Daune Ashdown

Nil

Julie Beilby
Chief Executive

TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

08 October 2018

Report of the Director of Central Services

Part 1 – Public

Delegated

1 HOMEWORKING POLICY AND PROCEDURE

The report attached in Annex 1 presents an updated Homeworking Policy for consideration by this Committee.

1.1 Introduction

- 1.1.1 As Members are aware, the Council's Flexible Working and Homeworking Policy currently incorporates guidelines for both managers and staff on the procedure for homeworking. Management Team consider it timely to review the existing homeworking component of this policy in order to more accurately reflect the Council's current arrangements (including opportunities presented by the developing Virtual Desktop Infrastructure), and to create the flexibility to incorporate future homeworking options. A copy of the existing Homeworking Policy is attached as Annex 2.
- 1.1.2 The policy presented in Annex 1 identifies 3 categories of homeworking; Occasional /ad hoc, Regular, and, Permanent/remote. At present all homeworking currently undertaken falls into the category of occasional/ad hoc. However, this situation could change very quickly e.g. in the event of major disruption/delays on the road network. Circumstances could arise, possibly on a temporary basis, in which a number of employees might need to work from home for a significant proportion of their working time in order to maintain service delivery. Fortunately the Council now has the IT infrastructure to support such a situation. So as to ensure that adequate attention is being given to the implications of such "regular" homeworking, (not least of concerning Health and Safety issues), the revised policy sets out updated guidelines for line managers and staff.
- 1.1.3 Currently no employees of the Council work permanently from home or remotely (i.e. visiting sites from their home as a base). However, this situation could change e.g. in the event of changes to the Council's Office Accommodation Strategy, or in the event of an individual requesting a reasonable change of

workplace due to a disability issue. Accordingly, the attached policy incorporates a framework for considering such a contractual employment arrangement (in the table on pages 4 and 5 of the policy), which would be further developed into comprehensive guidelines based on the prevailing legislative framework were such a situation to arise in the future.

1.2 Legal Implications

- 1.2.1 The recommended updated policy is compliant with the Equality Act 2010, the Management of Health & Safety at Work Regulations 1999 (and associated regulations), The Display Screen Regulations 1992, and the Electricity at Work Regulations 1989.

1.3 Financial and Value for Money Implications

- 1.3.1 The Council's existing IT infrastructure, coupled with the roll out of the Virtual Desktop infrastructure can accommodate current and anticipated levels of ad hoc/occasional and regular homeworking within existing budgets.

1.4 Risk Assessment

- 1.4.1 The updates to the existing policy regarding ad hoc/occasional homeworking have been made to respond to current and anticipated future operational needs of the Council and therefore mitigate risk.
- 1.4.2 Part of the consideration for an employee becoming a regular or permanent homeworker would be consultation with the Council's insurer depending on the circumstances of the case.

1.5 Equality impact Assessment

- 1.5.1 The recommendations pertaining to reasonable requests employees with a disability support The Equality Act 2010.

1.6 Policy Considerations

- 1.6.1 The Health & Safety Policy.

1.7 Recommendations

- 1.7.1 This Committee is commended to **RECOMMENDED** to Council the updated Homeworking Policy, as a standalone policy separate from the Flexible Working Policy and Procedure, as set out in annex 1 to this report.

contact: Delia Gordon

Adrian Stanfield
Director of Central Services



TONBRIDGE & MALLING BOROUGH COUNCIL

Homeworking Policy

Document Control

Reference	Homeworking Policy
Date	31 July 2018
Author	Adrian Stanfield, Director of Central Services & Monitoring Officer
Approved by	Management Team/ General Purposes Committee

Version History

Date	Version Number	Revision Notes
31 July 2018	V1	

Homeworking Policy

Purpose and Scope

Tonbridge & Malling Borough Council recognises that homeworking can provide considerable benefits for the business needs of the service as well as those of the individual. The Council also seeks to support homeworking in circumstances where productivity and performance improvements can be made.

Homeworking is evidenced to have clear benefits. To work effectively these arrangements must be based on good communication, trust and motivation, with the aim of improving the service for the customer.

This policy provides guidelines for managers, teams and employees when considering a homeworking arrangement. It sets out entitlements, eligibility criteria and other conditions that apply and have been developed to provide a clear approach to ensure fair treatment and consistency of approach.

The Council does not consider it feasible for staff to fulfil their caring responsibilities e.g. for looking after children or elderly relatives, at the same time as carrying out work duties. The Flexible Working Policy offers options and support to staff in such circumstances.

The Homeworking Policy is underpinned by an expectation that there is no detriment to provision of services or adverse impacts on colleagues. This policy applies to all employees of the Council. However, all arrangements are subject to the requirements of the service. It may not be practical for all services or teams to enable homeworking due to the nature of service delivery. If your role is entirely customer facing, in e.g. the Customer Services team, it is unlikely that a request for regular or permanent homeworking will be approved (although occasional ad hoc working from home could be approved in certain circumstances).

Types of Homeworking

The table below defines homeworking into three types:

Occasional (ad hoc) working from home	<ul style="list-style-type: none">➤ This is the most common type of homeworking.➤ It might be because an employee has a specific task they need to concentrate on without the normal interruptions of an office environment.➤ This might also occur where it is difficult for an employee to get into work because of travel disruption or adverse weather conditions.➤ This may be used in cases where following an illness or operation homeworking is recommended as part of a phased return.➤ The employee's line manager is empowered to authorise occasional working from home requests, taking into account the needs of the
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	organisation.
Regular homeworking	<ul style="list-style-type: none"> ➤ An employee would be classified as a regular homeworker when they regularly spend 30% of their contracted hours working from home. ➤ This is a formal agreement between the employer and the employee, which will need to be reflected in a written contract of employment. ➤ This type of arrangement often suits employees where the job involves frequent or regular off-site visits. ➤ Requesting regular homeworking needs to be supported by the formal process set out in Annex 1.
Permanent homeworking or remote working	<ul style="list-style-type: none"> ➤ This is when an employee spends 100% of their contracted working hours either working at home or visiting sites from their home base. ➤ Their contract of employment will need to reflect the fact that home is their contracted work base. ➤ This working arrangement could also be considered for any disabled employees with mobility problems. If upon medical advice homeworking is suggested this should be considered as a potential reasonable adjustment under the Equality Act 2010. ➤ Remote working is usually built into specific roles as part of the Job Description and job design.

Ad hoc or occasional home working

Key considerations for agreement between employees and their line manager for ad hoc or occasional home working are:

- Those requiring access to Council run systems must use a Windows to Go stick and a 2 Factor Authentication Token (the random number generator token) or a tablet provided by the Council;
- Those requiring access to email via a TMBC laptop or their own pc/laptop must use a 2 Factor Authentication Token (the random number generator);
- All those who have been issued with a Windows to Go stick and a 2 Factor Authentication Token (the random number generator token) must agree to checking that these function with their laptop or home pc on a monthly basis;
- Before homeworking is agreed the equipment, including the broadband connection, should be discussed with the IT Helpdesk to ensure that the setup will be sufficient to enable effective working from the home;
- Homeworkers must make arrangements to be contactable by phone;
- Homeworkers should ensure their Outlook calendars are up to date so others are aware of their availability;

- Homeworkers should ensure that arrangements do not impact adversely on other team members e.g. by ensuring that telephone calls aren't put through to colleagues without their agreement;
- There is no change in the contract of employment or designated work base;
- There is no allowance for household expenses arising from homeworking.

Regular homeworking

The key features of ad hoc homeworking also apply to regular homeworking. In addition the following will apply:

- The homeworking arrangement will be reviewed after a set period (e.g. 6 weeks in the first instance and as appropriate thereafter)
- An onsite health and safety risk assessment will be carried out in the home by the member of staff and their manager and any risks will be fully addressed by the line manager before the start of the home working arrangement (see the checklist in Annex 1);
- Employees will be expected to comply with reasonable management requests e.g. to attend meetings in the workplace (no travel expenses will be paid for attendance at such meetings);
- Requests for regular homeworking will be assessed and approved by a Director;
- The Personnel Manager will be consulted before the start of any regular homeworking arrangement to ensure that any agreement reached is consistent with the employee's contract of employment (which is likely to require amending).

Permanent homeworking and remote working

At present there are no employees permanently homeworking or remote working.

Procedure for requests for homeworking

- Homeworking is an option which is granted at management discretion. There is no entitlement to work at home.
- An employee who considers they have good reasons to request homeworking should discuss the issue with their line manager setting out how they think the work could be undertaken at home, and whether this is on an ad hoc or regular basis.
- Decisions on ad hoc homeworking will be undertaken by the line manager.
- For regular homeworking the employee should apply in writing to their manager. The request should specify why the employee thinks that their job role can be done as well as/or better at home than as at the office, and should propose appropriate working arrangements. They should also confirm the address at which home working will take place. They will also need to confirm that they have the appropriate internet connection and ability to securely access Council systems, and that their proposed homeworking arrangement will not impact adversely on other team members.
- The manager will consider the request and will evaluate whether or not they believe the homeworking arrangement will meet business needs as well as the needs of the individual making the request. If they do not, they will advise the employee accordingly.
- A recommendation for homeworking from the manager will be set out in writing and will be referred along with the request from the employee for consideration by the relevant Director, whose decision will be final. The manager will be responsible for notifying the employee of the decision and for ensuring that all of the conditions set out in this policy are properly addressed. Personnel Services should be copied into all emails/correspondence concerning the request, and will advise as to whether any contractual change is required before the homeworking arrangement begins.
- Before a permanent arrangement for regular homeworking is agreed there will be a trial period of 6 weeks during which there should be a continuous review of job performance

and working practices so that the advantages of homeworking for the post holder and the Council can be evaluated.

- Before the trial period begins the manager should have undertaken a Homeworking Health & Safety Risk Assessment (see Annex 1).

Consideration of requests for homeworking

The relevant managers will need to consider:

- Whether the job is suitable for homeworking taking into account the nature of the work.
- Whether the employee is likely to be effective as a homeworker. Do they have appropriate organisational and time management skills? Have they demonstrated the ability to work without close supervision? Do they have appropriate communication skills? Have they displayed the ability to comply with relevant legislation such as the General Data Protection Regulations?
- What impact the homeworking arrangement might have on the efficiency/effectiveness of the team/section and on customer service.
- In cases where the employee requesting homeworking is a supervisor or manager consideration will need to be given to the potential impact on those who are managed by the prospective homeworker.

Equipment

- The Council will not provide any essential equipment, other than at the request of a Director or where there are sound business reasons. The Council's IT staff are not authorised to install home equipment or provide home visits, and support services will only be provided from the Kings Hill offices.
- In the case of regular homeworking the Council will not provide any necessary equipment (e.g. desk, chair, and footrest) other than in cases of a reasonable adjustment due to disability.
- Employees will have a range of devices from which they may be able to access Council systems, and should adhere to Council protocols and information security policies at all times.

Security, Confidentiality and Health & Safety

- The Information Security Policy, all associated policies and the General Data Protection Regulations shall be adhered to at all times.
- Homeworkers should be mindful at all times to their duty of confidentiality to protect all information, particularly personal information, from unauthorised access. Care should be taken to ensure the security of such information at home. Failure to do so could be a breach of General Data Protection Regulations and could potentially lead to disciplinary action.
- Homeworkers must use a Council laptop, or a Windows to Go Stick and a random number generator to access the Council's network. Council documents must not be saved on personal PCs or memory sticks.
- Emailing of information should be done via Outlook. Under no circumstances should data be sent via external email or non-Council addresses.
- Homeworkers should not take sensitive paper files out of the office without the permission of their line manager and should ensure that such documents are not left exposed. Staff also need to ensure that a record is kept of any files taken out of the office.
- Staff who have taken paper copies of documents out of the office should ensure that such documentation is destroyed securely when it is no longer required.
- Employees working from home have the same duties under the Health & Safety at Work Act as all other employees and must take reasonable care of their own health and safety

and that of anyone else who might be affected by their actions and omissions. Homeworkers must not carry out work meetings in their home with customers, or officers from other agencies, to prevent the risk of difficult situations. If homeworkers need to attend site meetings direct from home, they must comply with their team's standard lone working practices.

Insurance

- In general the categories of homeworker encompassed within this policy are covered by the Council's Employers and Public Liability Insurance arrangements. Accidents or injuries at home must be recorded using the Council's existing accident reporting process.
- If a homeworker suffers an injury caused by the Council's negligence, any claim which arises will be dealt with under the Council's employers liability insurance.
- If through the negligence of the homeworker, whilst carrying out their duties, a third party suffers an injury or loss, any claim which arises will be dealt with under the Council's insurance. If, however, claims arise within the employee's home for which the Council has no control (e.g. defects on the homeworker's premises) they would not be covered.
- Regular homeworkers will be required to clarify that their Home Insurance covers them for working at home.
- In cases of homeworkers having mortgage or tenancy agreements, regular homeworkers should inform anyone with an interest in their property (i.e. building society, landlords etc.) of their homeworking arrangements.
- The Council's policy does not cover the loss or damage of equipment taken out of Council premises and left in vehicles. Employees should ensure that equipment e.g. laptops, printers etc. once taken out of Council premises should be transferred directly to a safe and secure location.

Taxation

- The ad hoc and regular homeworking as covered by this policy will not trigger changes in the council tax band of the homeworker's property, nor will the room in which they work be assessed for business rates.
- Any equipment supplied for homeworking should be used for Council business only, and as such is unlikely to be classified as a taxable benefit by HMRC.

Change of Employee Address

A homeworking agreement will be reviewed if an employee changes address. In this case a new health & safety risk assessment will need to be carried out, and, the relevant managers will consider if the homeworking agreement is likely to continue to be effective.

Terminating Homeworking Arrangements

The Council reserves the right to withdraw from a homeworking agreement with immediate effect if:

- security or safety standards are not being maintained, or it is no longer technically possible to maintain such standards;
- an employee does not comply with the homeworking policy or agreed arrangement;
- an acceptable level of productivity is not maintained.

Annex 1

Health & Safety Assessment Checklist

HOME WORKING HEALTH AND SAFETY ASSESSMENTS

Tonbridge & Malling Borough Council has a legal duty to all employees and others who may be affected by their activities. In particular the Health and Safety at Work Act (HASAWA) places a duty on employers, the self-employed and employees to provide and maintain a safe place and systems of work.

Most of the Regulations under HASAWA apply to Homeworkers and these include

- The Management of Health and Safety at Work Regulations 1999
- The Display Screen Regulations 1992
- Electricity at Work Regulations 1989
- First Aid Regulations 1981
- Manual Handling Regulations 1992
- Personal Protective Equipment Regulations 1992
- PUWER (Provision and Use of Work Equipment Regulations) 1998
- COSHH (Control of Substances Hazardous to Health) Regulations 2002
- RIDDOR (Reporting of Diseases and Dangerous Occurrences Regulations) 2013
- Working Time Regulations 1999
- Lone Working

Under the Management of Health and Safety at Work Regulations employers are required to carry out a risk assessment of the work activities of their employees, this includes those who are employed as Homeworkers. The Homeworking Policy provides a definition of Home working.

Assessment form

The attached Assessment Form must be completed and agreed by the relevant line manager or Service Manager before an employee can start Homeworking.

The employee must undertake to provide information to the best of their knowledge and advise their manager if any of the information provided changes. It is recommended that this assessment is reviewed annually as a minimum.

Any matters that are considered to be unsatisfactory or of concern should be referred to the Health & Safety Officer for advice before Homeworking can be authorised.

A copy of the completed form will be kept by the employee, and copies will be retained by the manager, the Health and Safety Officer and a further copy will be placed on the employee's personal file in Personnel Services.

HEALTH AND SAFETY ASSESSMENT CHECKLIST

Name	
Home Working Address	
Type of work to be carried out	
Date of Assessment	

Workplace and Work Equipment

	Yes/ No/ N/A	Comments /further information/action
Is a room or space specifically set aside for the work?		
Is the heating and lighting adequate for work to be carried out?		
Is there adequate space and facilities for the safe storage of work and materials?		
Is the workspace free of tripping hazards e.g. cables, floor covering etc?		

Has work equipment been provided by TMBC? (Give details)		
Has a Display Screen Equipment (DSE) Risk Assessment been completed? (Please attach copy)		
Has DSE Risk Assessment E-learning training been carried out?		

Electrical Equipment

Is any electrical equipment provided by TMBC inspected regularly by a competent person?		
Are the plugs correctly fused and cables in good condition?		
Are extension leads in good condition?		
What is the age of the house wiring? (Please state if known)		

Substances

Does the work involve the use of any chemicals or substances		
If so, has a COSHH Assessment been carried out		

Manual Handling

Does the work involve manual handling?		
Has a Manual Handling Assessment been carried out?		
Has Manual Handling E-learning Training been carried out?		

General

Are there any children, dependent people or animals in the house that could cause a hazard or are likely to be affected by the work?		
Is the home worker a new or expectant mother?		
Does the home worker consider themselves to be disabled with any particular requirements?		

Lone working/personal security

Will the home worker be required to work alone for long periods of time?		
Is there access to a telephone?		
Will the employee be making site visits or making home visits to the public?		
Is there a system in place for calling of help in an emergency (either in the home or when making site visits or visiting the public)?		
Have arrangements been put in place for contact with managers and colleagues?		

Have any other concerns about Health and Safety been raised. Please note them below

Employee's Signature		Date
Managers Signature		Date

Review Date	
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FLEXIBLE WORKING, HOME WORKING AND TIME OFF POLICY

1. INTRODUCTION

- 1.1. Within the limitations necessarily imposed by the provision of services to the public, the Council acknowledges the importance of balancing working time requirements with the differing needs and/or priorities that individual staff have outside work in order that it can retain a motivated and demographically diverse workforce.
- 1.2. This document gives a summary of the types of flexible working and time off issues that are available for staff and managers to consider. It should be recognised that, due to the rigid nature of some jobs, it will not be possible for all staff to have as much flexibility as they might wish. It will be for Chief Officers to determine what methods of flexible working are applicable to each section/job. However, it will be for management to demonstrate why a particular method cannot be facilitated.
- 1.3. When considering requests for changes to working patterns, leave (such as annual leave and flexi-time leave), time off in lieu etc, managers will be mindful of their responsibility to ensure levels of staffing/office cover that are necessary to enable the Council to undertake its commitments to the public and to discharge its responsibilities for the health and well being of those providing office/service cover.
- 1.4. The Council will adhere to legislation concerning flexible working and will not discriminate unlawfully when making decisions about whether to allow someone to work flexibly.

2. FLEXTIME

- 2.1 In sections where it is possible to run a flexitime working hours scheme staff will have the opportunity to vary times of arrival at and departure from work and the length of their lunch break subject to there being a period of core hours and that offices are staffed sufficiently to respond to customers during the period from 0830 to 1700 hours.
- 2.2 Staff participating in the scheme will be required to record their working time on the forms which will be provided for each section participating in the scheme.
- 2.3 It has to be understood that within the scheme there will be varying degrees of flexibility depending on the nature of the work. In some sections a very large degree of flexibility outside of the core hours will be practicable, in others e.g. customer services, caretaking, operational

staff at the leisure centres, it will be essential to pre-determine with staff the pattern of hours they will work so that services can be maintained. In these sections staff will need to agree with their managers any departures from normal patterns of work to minimise service disruptions.

2.4 Core and Variable Time

2.4.1 Core working hours are 1000 to 1200 hours and 1400 to 1600 hours, Monday to Friday unless alternative core times are agreed between managers and staff. This may be the case where sections have peak workloads at times outside the standard core hours. Where necessary, core times will also be different for part time staff. Time worked outside of core hours and between 0730 and 1830 hours therefore represents the variable working time.

2.4.2 However, the variable working time may be in a narrower band for staff who depend on certain computer systems for their work if those systems are not available throughout the standard variable time. This issue will need to be resolved at a section level. Time worked between 1830 and 0730, or between the limits of such narrower bands of variable time that are determined for certain sections, is not recordable for the purpose of flexitime but may be claimed as overtime or time off in lieu by staff who qualify for these. A minimum of 30 minutes must be taken for lunch between 12.00 and 14.00.

2.5 Recording and Accruing Working Time

2.5.1 A four week settlement period will apply, whereby at the end of each settlement period a maximum credit or debit of 10 hours can be carried over into the next settlement period. Unless authorised by the Chief Officer due to exceptional circumstances, any hours in excess of 10 hours will not be carried forward. Deficits in excess of 10 hours should be taken from the employee's annual leave entitlement.

2.5.2. If sufficient credit time has been accrued, flexi-leave may be taken in full or half days other than for medical and dental appointments, when the amount of time needed can be taken. A maximum of 1 day's flexi-leave can be taken in any settlement period. All flexi-leave must be agreed with the employee's manager in advance.

2.5.3 Hours not worked because of training, external meetings, sickness or approved leave will be 'credited'. Other hours not worked, e.g. dealing with domestic emergencies, traffic delays or planned medical or dental appointments will not be counted as working hours. Planned dental, hospital or doctors' appointments should be arranged in an employee's own time where possible. In the event that such appointments must take place during work time then flexi-leave, time in lieu, lunch breaks or annual leave must be used to cover the absence. The exceptions to this will be in the case of a pregnant employee who has medically necessary ante natal appointments for which she has the right to paid time off (where such appointments will

be accounted for as working hours), and employees with disability who are required to access regular medical treatment. In the case of the latter, it will be for management and the individual to agree how such time off will be accounted for and whether the flexi-time scheme is the appropriate method of accounting for this time.

The phrase 'Planned dental, hospital or doctors' appointments' assumes that the individual is fit to return to work after the appointment. In the event that they are medically not fit to do so, the individual should self-certify as sick.

2.5.4 Bank/Public Holidays and annual leave should be recorded as 7 hours 24 minutes (7.4 hours) for a day and 3 hours 42 (3.7 hours) minutes for half a day.

2.5.5 For further detailed guidance on the recording requirements of the flexi-time scheme please refer to the Flexible Working & Time Off Accounting Sheet Instructions on the Personnel Reference Manual.

2.6 Review

2.6.1 The Council reserves the right to withdraw or suspend the scheme generally, or in specific sections should circumstances make this necessary, following a minimum of four weeks notice to staff. Staff may withdraw from the scheme by written notice to their manager at the end of any accounting period (ensuring that they have no debit to carry forward).

2.6.2 Failure on the part of an individual member of staff to abide by the terms of the flexitime scheme will result in its withdrawal and abuse of the scheme will be treated as a disciplinary matter.

2.6.3 Any dispute concerning the operation of the scheme, which cannot be settled by the Service, will be dealt with through the grievance procedure.

3. TIME OFF IN LIEU

3.1 Where flexitime is not in operation or the time worked is not within the flexi-time band of core and variable hours, non-M grade staff may request to claim time off in lieu rather than being paid for additional hours or overtime.

3.2 Non-M grade staff requiring a specific period of time off work can request that they be allowed to work such hours back at a later time. Such requests must have the agreement of the line manager and hours 'worked back' must complement service needs.

3.3 M grade staff are contracted to work the time that is necessary for the proper and efficient despatch of their duties and responsibilities. They

do not have a contractual right to overtime payments or time off in lieu. However, managers of M grade staff should monitor their working time, particularly where this involves significant evening or weekend commitments, and may sanction arrangements for compensatory time off where justified by evening or weekend workload levels.

4. REQUESTS TO WORK PART-TIME, JOB SHARE OR CHANGE DISTRIBUTION OF HOURS

- 4.1 All employees have a right to request a change from full to part-time hours or to vary the distribution of their present hours. Such requests will be fully considered, by the relevant managers (supported by a representative from Personnel Services), following the procedure set out in the Annex to this policy. Whilst it may not always be possible to find an arrangement that satisfies both the individual and the service need, every attempt will be made to find a complimentary solution.
- 4.2 There are a number of factors that may influence the response to such requests, including rights conferred by the Equality Act 2010. In instances where an employee has requested an adjustment on the grounds of a disability, managers will be mindful of the duty to make reasonable adjustments to a working pattern if this removes a barrier to the employee being able to do the job. Managers will also consider requests for adjustments in working patterns to accommodate caring responsibilities, requirements pertaining to religion or belief and issues relating to gender reassignment within the framework provided by the Equality Act 2010. In accordance with the Parental Leave (EU Directive) Regulations 2013, agency workers returning from a period of parental leave have the right to request flexible working.
- 4.3 Job sharing provides a convenient solution to requests to work part-time where full time hours are required. However, the arrangement of a job share for an existing member of staff can be limited by the ability to fill the 'other half'. Again, every attempt will be made to find a solution but, in the event that none can be found, the request may be refused.
- 4.4 An assumption will be made that an advertised post will be open to job sharing unless the Chief Officer has demonstrated that it cannot be.

5. TERM-TIME WORKING

- 5.1 Term-time working allows for absences during school holiday periods, allowing parents to be at home to care for children. In small teams it can be hard to accommodate one person's absence for such periods

without burdening others and in a relatively small organisation like Tonbridge & Malling it is likely to be particularly difficult to accommodate this type of flexible working. Therefore, any employees wishing to move to term time working should make proposals to their manager that explain how their request could be met and any detrimental effects reasonably overcome.

- 5.2 Any agreement to allow term-time working will be reviewed annually and withdrawn where it has adversely affected the effective running of a service or the motivation or welfare of other staff.
- 5.3 Those for whom term time working has been agreed will be required to work according to the dates of the academic year of the relevant Education Authority or private school (approximately 38 weeks) for an agreed number of hours per week. The first day of the autumn term will be considered to be the beginning of the new academic year. Should the year's term dates exceed or fall short of the equivalent of 38 weeks, any outstanding balance of hours will be paid or deducted at the year end. To this end term time workers will be required to maintain a timesheet, which should be submitted on the first day of each month to their line manager. In the event that the contract is brought to an end, by either the individual or the Council, before the beginning of a new academic year and the individual has been paid for more or less hours than they have worked on a pro rata basis, the balance will be paid to them or deducted from their final salary payment.
- 5.4 Entitlement to leave will be on a pro rata basis, according to the number of whole calendar months worked. Any overtaken leave at the time of termination will be deducted from the final salary payment.

6. HOMEWORKING

6.1 Homeworking, Teleworking and Mobile Working Policy

- 6.1.1 This policy has been developed in the context of the Council seeking to provide greater flexibility in patterns of work where personal circumstances and the nature of the tasks to be undertaken lend themselves to working from home and/or where reduced travel to work would have environmental benefits.
- 6.1.2 A homeworking arrangement, whether on a permanent, temporary or non-contractual basis, might enable disabled people or those with caring responsibilities to remain in the Council's employment. There may also be periods of time when, due to for example prolonged disruption in travel arrangements or continuing highway maintenance activities, there is a good case for homeworking for some employees. As an action within the Council's staff travel plan, either occasional or more regular patterns of homeworking can also be used to reduce commuter travel and peak time congestion to the Council offices.

6.2 Definition

6.2.1 There are two types of homeworking covered by this policy. Homeworking as a contractual agreement covers the following circumstances:

6.2.1.1 Those who work at home for an agreed part of their normal working time, whilst maintaining a regular base at a Council Office i.e. their time would be split between home and office. Staff who are being “eased back into work” following a long term illness, those who have developed a physical or mental impairment.

6.2.1.2 Staff who work wholly from home and do not have a base in the office. Some temporary jobs that involve project work or have an identifiable output might belong to this category.

6.2.1.3 Staff who work from home as a base. This might involve those employees whose main duties include working on site and rarely requires visiting the Council offices.

6.3 Homeworking on a non-contractual basis covers the following:

6.3.1 Staff who, with the prior agreement of their line manager, are authorised to work from home on occasional days. This would have the benefit of reducing commuter mileage in line with the staff travel plan.

6.4 Principles – Contractual Homeworking Arrangements

6.4.1 At present not many jobs within the council lend themselves to contractual homeworking as outlined in section 1.1 above.

6.4.2 Contractual homeworking is not offered as a right but on the suitability of the post/environment/person(s) concerned, where this enhances the quality of service provided.

6.4.3 This policy is intended to apply to those who live within a reasonable travelling distance of the Council offices to enable them to attend team meetings.

6.4.4 The decision on a contractual homeworking request will lie with the line manager in consultation with the relevant Chief Officer. Managers have the right to refuse requests for contractual homeworking where they consider that it is unsuited to the post, environment or person. Managers will also need to consider whether the cost of contractual homeworking outweighs the benefits to the service. If, for example, working regularly from home necessitates a large financial outlay in terms of IT equipment, furniture and a broadband linkage to existing Council systems, there would need to be very compelling advantages to service delivery to justify this expenditure. The IT Manager will need to be consulted in assessing the cost of contractual homeworking in those circumstances where

there is a requirement for the purchase of additional equipment/furniture. Staff who do not accept the reasoning provided for a refusal to accommodate a request under this document will have the right of appeal to the Chief Executive.

6.4.5 In order to be considered for a contractual homeworking arrangement, employees will need to be able to demonstrate that they are able to:

- i) work without close supervision
- ii) satisfactorily meet the requirements of the duties of the post
- iii) be self reliant and cope with isolation
- iv) organise working time and meet scheduled deadlines
- v) provide suitable accommodation to work from home, free from distraction
- vi) demonstrate the absolute security of their work (both manual and computerised information)
- vii) comply with the IT Security Policy, Data Protection Act and the Freedom of Information Act
- viii) maintain appropriate levels of communication with their manager via phone/fax/e-mail.

6.4.6 Contractual homeworking is unlikely to be suitable for those who are required to closely supervise other staff as part of their duties.

6.4.7 Contractual homeworking is voluntary, and cannot be imposed on any member of staff other than where homeworking formed part of the employee's original contract.

6.5 Process for becoming a contractual homeworker

6.5.1 An employee who considers that s/he has good reasons to request a contractual homeworking arrangement should discuss the issue with his/her line manager setting out ideas on how his/her work could be undertaken.

6.5.2 Before a permanent arrangement is agreed there will be a trial period during which there should be a continuous review of job performance and working practices so that the advantages of contractual homeworking for the postholder and Council can be evaluated.

6.5.3 Before the trial period begins the line manager should have undertaken the attached contractual Homeworking Checklist with the employee.

6.5.4 Once the employee, the line manager and the relevant Chief Officer have agreed the arrangements for contractual homeworking, the Personnel Manager should be notified in order for any appropriate contractual changes to be expedited.

- 6.5.5 The homeworking employee should follow established Council procedures for requests for annual leave, notification of absence due to ill health etc.
- 6.5.6 The homeworker will be expected to attend team meetings and other relevant meetings as required. No travel expenses will be paid for attendance at these meetings.
- 6.5.7 If an existing homeworker plans to move home, or if their circumstances otherwise change, they must inform their line manager so that s/he can consider whether the homeworking arrangement can continue in the new location.

6.6 Insurance

- 6.6.1 In general contractual homeworkers are covered in the same way as other employees under the Council's Employers and Public Liability Insurance arrangements.
- 6.6.2 Employers Liability – If a homeworker suffers an injury caused by the Council's negligence, any claim which arises will be dealt with under this insurance.
- 6.6.3 Public Liability – If through the negligence of the homeworker, whilst carrying out their duties, a third party suffers an injury or loss, any claim which arises will be dealt with under the Council's insurance. If, however, claims arise within the employee's home for whom the Council has no control (e.g. defects on the homeworker's premises) they would not be covered.
- 6.6.4 Home Insurance (Property/Contents) – Homeworkers will be required to clarify that their Home Insurance covers them for working at home and will be required to produce evidence of this on an annual basis.
- 6.6.5 Mortgage and Tenancy Agreements – Homeworkers should inform anyone with an interest in their property, i.e. building society, landlords etc.

6.7 Equipment and software

- 6.7.1 Any decision to purchase and supply equipment and software for homeworking will need to be made in consultation with the IT Manager. In assessing the overall cost managers and staff will need to be aware that this cost will involve a requirement for ongoing support from IT staff.
- 6.7.2 Any equipment and software provided and maintained by the Council will remain the property of the Council. The Council will not be responsible for maintenance costs or repair in the event of loss or damage of any personal equipment used.

- 6.7.3 Homeworkers must regularly backup their computer files and ensure that these backups are stored by IT Services.

6.8 Taxation

- 6.8.1 An employee's council tax position is unlikely to change through homeworking.
- 6.8.2 Contractual homeworking is a matter of choice and administrative convenience. It is therefore unlikely to qualify for tax relief. However, employees may wish to clarify their own tax position with the Inland Revenue.
- 6.8.3 Any equipment supplied for homeworking should be used for Council business only, and as such is unlikely to be classified as a taxable benefit by the Inland Revenue. There will be a requirement for staff to declare such equipment on their Tax Return only if the total value of the equipment supplied by the Council exceeds £2,500.

6.9 Travel Expenses

- 6.9.1 In normal circumstances any travel incurred by a homeworking employee would be reduced by their notional home to work travel.
- 6.9.2 It is very unlikely that any contractual homeworker would be able to demonstrate to the Inland Revenue that their normal place of work is home for the purposes of claiming travel expenses. At present the Inland Revenue would not accept that the home is a normal place of work if the Council provides any workplace facilities for the employee. Nor would it allow employees to claim home as a place of work if their duties include regular visits to a workplace for team meetings etc.

6.10 Health & Safety Implications

- 6.10.1 Health & Safety Display Screen Equipment Regulations 1992 – are directly applicable to contractual homeworkers required to use a display screen as part of the homeworking arrangement, including the opportunity for any eye test.
- 6.10.2 Risk Assessment – an assessment of the risks involved will be carried out by the line manager according to the schedule attached in annex 1.
- 6.10.3 Testing of electrical equipment provided by the Council – this will take place in accordance with existing maintenance guidelines.
- 6.10.4 Visitors to home – contractual homeworkers must not meet clients or representatives in their home. Rooms at the Council Offices or other suitable locations should be used for this purpose.

- 6.10.5 Accidents – connected with official duties undertaken at home should be recorded using the Council's existing accident reporting process.

6.11 Monitoring

- 6.11.1 Staff who have a contractual homeworking arrangement will be able to opt into the Flexi-time system. Any Flexi-time taken should be authorised by the line manager in the normal way.

6.12 Principles – Non- Contractual Homeworking

- 6.12.1 Non-contractual homeworking will be for those staff who are authorised to work from home on occasional days and so help meet mileage reduction objectives within the staff travel plan. In order to achieve this, staff should be encouraged by their line manager to work a full day at home without using the car on that day to ensure mileage reduction objectives are met. Part days working at home should be only be considered acceptable in exceptional circumstances as this would not accord with objectives in the staff travel plan..
- 6.12.2 It must be recognised that not all staff will be able to work from home, e.g. frontline staff and those undertaking site visits but need to use the office as a base. For other staff, formal conditions, as set out below, must be met to enable home working to be authorised.
- 6.12.3 Non-contractual homeworking will be at the request of the employee and on this basis, any IT hardware and software, office facilities and any associated costs will be the responsibility of the employee. Sections 4,5,6, and 7 of this policy do not apply to non-contractual homeworkers. To accord with the provisions of the Display Screen Equipment Regulations 1992, staff working at home on a non-contractual basis will be expected to complete a self assessment of their own work stations.
- 6.12.4 Staff who wish to homework on occasional days will need to ensure that this is agreed in advance with their line manager. Managers have the right to refuse requests for such homeworking where they consider that this would create difficulties. For example, the line manager will need to ensure that there is adequate cover in the office for staff to homework and that other team members are made aware of the request and are consulted. Normally, only one member of staff within a team would be allowed to homework on any given day.
- 6.12.5 There will need to be trust between the line manager and employee. However, it is the responsibility of the line manager to ensure the employee has one or more specific work tasks that can be undertaken at home when agreeing to a request to home work. This

should be monitored by the line manager to ensure that work has been completed as agreed.

- 6.12.6 Those working from home on occasional days will be expected to keep to their normal hours of work, maintain access to GroupWise and be contactable via email and/ or telephone during core work times.

6.13 Members

- 6.13.1 In line with the Council's commitment to achieving the E-government agenda, elected members of the Council need to have access to appropriate IT facilities.
- 6.13.2 This commitment is discharged by offering a loan to any Members wishing to purchase IT equipment for use at home, and by the availability for Member use of two workstations at the Civic Suite reception.

6.14 Addendum

In the event of adverse weather conditions preventing staff from travelling safely to work, or in times of civil emergency, or when the place of work is closed, the Council may request that staff work from home where this is appropriate and possible. In such circumstances, the principles of non-contractual homeworking (para.10 above) will apply, albeit that the request to work from home will be made by the Council and the Health & Safety measures should be complied with where this is reasonably possible within the available time frame.

7. MATERNITY LEAVE

- 7:1 Pregnant employees have the right to paid time off for ante-natal care.

- 7:2 Employees with more than 26 weeks continuous TMBC service, and who meet the necessary qualifying criteria, have a basic right to Statutory Maternity Leave of 39 weeks paid leave and a further 13 weeks unpaid leave.

- 7:3 For employees with more than 1 years continuous local government service, there is an occupational entitlement to enhanced rates of maternity pay (six weeks at 9/10ths pay, twelve weeks at half pay plus Statutory Maternity Pay, and then 21 weeks at the statutory rate).

- 7:4 In order to retain the half pay element mentioned above, an employee must return to work following the end of their maternity leave for a minimum of three months.

- 7:5 Employees on maternity leave can work for up to 10 Keeping in Touch days during their maternity leave.

8. PATERNITY LEAVE

8:1 For employees with at least 26 weeks continuous service with TMBC, and who satisfy the conditions relating to Statutory Paternity Leave, there is a statutory entitlement to two weeks paternity leave with Statutory Paternity Pay. For employees with more than 1 years continuous service with TMBC, there is an occupational entitlement for one of these weeks to be paid at the normal weekly rate.

8:2 Paternity Leave can be taken by the biological father, the mother's husband, partner or civil partner, or the adopter's spouse, partner or civil partner. They must have or expect to have responsibility for the child's upbringing.

8:3 Statutory Paternity Pay

8:3:1 In order to be assessed for Statutory Paternity Pay, form SC3 (for paternity leave), form SC4 (for paternity leave adoption) or form SC5 (for paternity leave adoption from abroad) should be completed by the employee and forwarded to the payroll office by the 15th week before the baby is due or within 7 days of the adopter being notified of being matched with a child.

8:3:2 The employee can change their mind about the intended start date but should give the employer 28 days notice of the dates.

8:3:3 If it is not possible to give the necessary notice, the issue should be discussed with the Line Manager who should liaise with Personnel and Payroll.

8:3:4 Statutory Paternity Pay can be paid for one or two weeks (but not two separate weeks).

8:3:5 Paternity leave cannot start before the child is born and must finish within 56 days of the actual birth or expected week of childbirth.

8:4 Additional Paternity Leave

8:4:1 In addition to the provisions outlined above, employees will be entitled to take additional paternity leave (APL) of between 2 to 26 weeks in the first year of their child's life, or the first year after the child's placement for adoption. In order to be assessed whether there is an entitlement for payment for any of this leave the employee needs to complete form SC7 (for parents), SC8 (for adoptive parents, or SC9 (for adoptions from abroad).

8:4:2 Employees can start their additional paternity leave any time from 20 weeks after the child is born, provided that the mother or adopter has returned to work. Any APL which falls within the mother or co-adopters statutory maternity or adoption leave pay will qualify for the remainder of the mother's or co-adopter's statutory maternity or adoption leave pay. This will be paid to the father as additional statutory paternity pay. Contractual benefits, apart

from remuneration, will continue during APL and fathers will be able to take Keeping in Touch Days.

9. PARENTAL LEAVE

9:1 If you have at least one year's continuous service with your employer and are responsible for a child aged under 5, or under 18 if your child is entitled to Disability Living Allowance, you are entitled to:

- 18 weeks (unpaid) leave per child to look after your child
- 18 weeks (unpaid) leave per child to look after your disabled child

9:2 To qualify for parental leave, you must be a parent (named on the birth certificate), adoptive parent, or have acquired legal parental responsibility for the child.

9:3 The leave must be taken by the child's fifth birthday, or for a child who is entitled to Disability Living Allowance, by their 18th birthday. For parents who have adopted a child, the leave must be taken during the five years from the date of placement or before the child's 18th birthday, whichever is the sooner.

9:4 Leave can be taken in blocks of a week and up to four weeks in a year, or blocks of a day if the leave is to care for a disabled child (again, up to a maximum of four weeks a year).

9:5 You must give at least 21 days' notice to your employer in order to take parental leave.

9:6 Parental leave can be postponed by TMBC if taking leave at the time requested would cause particular disruption to the organisation, e.g. during a seasonal peak in work or if multiple requests for parental leave are made at the same time.

9:7 If leave is postponed, TMBC must inform the employee within seven days of the request for leave being made, and the leave must be granted within six months. Parental leave cannot be postponed if it has been requested for the time immediately after the birth of a child or the start of an adoption placement.

10. ADOPTION LEAVE

10:1 Employees will be allowed up to five days paid leave for the purpose of visiting a child and making the necessary arrangements with the Adoption Agency or Social Services Department. This leave applies to both prospective parents.

10:2 Employees with more than 26 weeks continuous service, and who meet the necessary qualifying criteria, have a basic right to Statutory Adoption Leave which mirrors the Statutory Maternity Leave and Statutory Paternity Leave provision.

10:3 For employees with more than 1 year's continuous service with TMBC, there is an occupational entitlement to enhanced rates of adoption pay.

11. COMPASSIONATE LEAVE

11:1 Compassionate Leave is at the discretion of Chief Officers to whom requests for such time off should be directed. In most instances between 1 and 5 days paid leave will be granted but this will entirely depend on the circumstances and the reasons leading to the request.

12. SPECIAL LEAVE

12:1 Special Leave is normally unpaid and meant to be used whenever it is not appropriate or possible to use annual or compassionate leave. Again, it is at the discretion of Chief Officers.

12:2 Where the request is only for one or two day's leave, Chief Officers may consider allowing the individual to work the hours back at some time in the future rather than to reduce their pay.

13. TIME OFF FOR RELIGIOUS HOLIDAYS

13:1 Leave for religious holidays/festivals not celebrated by a public holiday will not be unreasonably refused and should be taken out of the annual leave entitlement.

14. JURY SERVICE

14:1 If you are called for Jury Service, inform your Chief Officer of the dates you have been asked to attend. The Courts will send you a Loss of Earnings Certificate which you should take to Payroll.

15. TIME OFF FOR PUBLIC DUTIES

15:1 Reasonable paid time off during working hours of up to 18 paid days per year may be authorised by your Chief Officer for the performance of the following public duties:

- Justice of the Peace
- A member of a local authority
- A member of a statutory tribunal
- A member of an NHS Trust board or Health Authority or Primary Care Group
- A governor of an educational establishment
- A member of a board of visitors for prisons, remand centres and young offenders institutions

- A member of a housing association board
- A member of the Territorial Army

15:2 Although this is discretionary, Chief Officers are encouraged to allow time off for such duties wherever reasonably practical, and likewise employees are expected to ensure the time off does not have a detrimental effect on the performance of their job wherever this can be avoided.

15:3 Performance of any such duty should be declared in accordance with the Code of Conduct.

15:4 Paid time off of up to three days per year may also be authorised for the performance of voluntary duties with recognised groups undertaking work of benefit to the residents of the borough.

16. TIME OFF FOR STUDY & TRAINING

16:1 To make a request for time to train an individual must:

- be an employee
- have worked for the Council continuously for at least 26 weeks on the date they make their request.

16:2 As there is no time limit for the length of time that the study or training may take, potentially the entire range of developmental activity currently supported by the Council could fall within the remit of these regulations – IF THE INDIVIDUAL REQUESTING THE TRAINING CHOOSES TO INITIATE THE FORMAL PROCESSES SET OUT IN The Employee Study & Training (Procedural Requirements) Regulations 2010.

16:3 Employees will have the right to request that the Council allow them time to undertake training. They do not have the right to be paid for the time spent training.

16:4 In order for a request for time to train to be a valid request, covered by the legislation, it must be submitted in writing.

16:5 The timescales for considering time to train requests mirror those set out in the requesting flexible working procedure set out in the Annex to this policy.

16:6 The employee's request for time to train can only be refused for one of the "business reasons" set out in the Annex (below) to this policy.

16:7 For detailed guidance on the provision for supporting staff engaged in study and training activity, please refer to the Training Expenses & Facilities Scheme on the Personnel Reference Manual.

Annex 1

REQUESTING FLEXIBLE WORKING PROCEDURE

This procedure should be followed whenever an employee makes a request to work part time, job share or change the distribution of their hours, or for time off for study or training.

An employee can make only one request every 12 months. The employee and their line manager, supported by a representative from Personnel Services, should follow the procedure set out below. Time limits can be extended only where this has been agreed in writing.

The employee initiates the procedure by making a formal written request. The request should include details of the requested change in working pattern and the date on which it is proposed the change should take effect. The employee should also explain what effect, if any, he or she thinks making the change would have on the service they provide or role they undertake, and how, in his or her opinion, any such effect might be dealt with. A copy of this formal request should be sent to the relevant line manager and Personnel Services.

The line manager, having consulted a representative from Personnel Services, may agree to the employee's request to vary their working patterns, or for time off for study or training. If so, they must write to the employee within 28 days of receipt of the employee's request. The letter must set out the agreed changes to the employee's working patterns and the date these are to commence.

In the absence of an immediate agreement to the employee's request, the line manager must arrange a meeting within 28 days to consider the employee's request. An employee has the right to be accompanied by a work colleague or trade union official working for the Council at the meeting. The manager will be supported by a representative from Personnel Services.

The manager must consider the employee's request seriously and, in the case of a change to the pattern of working hours, can only refuse the request for one of the following prescribed business reasons:

- the burden of additional costs;
- detrimental effect on the ability to meet customer demand;
- inability to reorganise work among existing staff;
- inability to recruit additional staff;
- detrimental impact on quality;
- detrimental impact on performance;
- insufficient work during the periods the employee wished to work;
- planned structural changes.

There are the following two additional reasons for refusing a request for time off for study or training;

- the proposed study or training would not improve the employee's effectiveness;
- the proposed study or training would not improve the performance of the Council.

The manager must notify the employee in writing of their decision within 14 days of the meeting.

The employee must be given the opportunity to appeal the decision. The employee must outline in writing the reasons why he or she thinks the decision is wrong within 14 days of the decision. The appeal letter should be submitted to the employee's Chief Officer, or the Chief Executive or his/her nominated deputy (as appropriate).

The Chief Officer, Chief Executive or nominated deputy will then organise an appeal meeting to consider the employee's appeal. An employee has the right to be accompanied by a work colleague or trade union official working for the same employer at the appeal meeting. The manager hearing the meeting will be supported by a representative from Personnel Services.

The manager hearing the appeal meeting must notify the employee of their final decision within 14 days of the appeal meeting. If they agree to vary the employee's working pattern, it should be set out in writing what the agreed change is and when it is to start. If they do not agree to any change, they should provide the employee with their reasons.

Any changes put in place will be permanent unless the employee and employer agree otherwise. For example, the changes could be put in place for a three month trial period.

Personnel Services

June 2004

Amended May 2006, August 2006, January 2007, March 2007, August 2007, June 2011, August 2012, February 2013, March 2014, July 2015

Annex 2

WORKING FROM HOME – ASSESSMENT CHECKLIST

Name

Homeworking address

Type of work being carried out at home

Health & Safety

Yes No N/A

1 Is the workspace adequate to enable the employee to perform the allocated tasks?

2. Is heating and lighting adequate?

3. Are there sufficient storage facilities?

4 Has equipment/furniture been provided by the Council?

5 Has the issued equipment/furniture for use at home been added to the inventory?

6 Has any electrical equipment been tested to ensure compliance with electrical safety standards?

7 Has the equipment been added to the inspection schedule?

8 Does the work involve the use of any chemicals/substances?

9 If so, has a COSHH assessment been carried out?

10 Has an assessment of any other risks associated with the tasks that the employee will be expected to undertake at home been carried out?

11 Has the individual's home insurance policy been checked and is it valid?

Working Practices

1 Has it been agreed how frequently the employee will be in contact with his/her supervisor and how?

- | | Yes | No | N/A |
|--|-----|----|-----|
| 2 Have arrangements been made for the employee to attend team meetings and to be kept informed of key group and/or service information and developments? | | | |
| 3 Is the employee aware that all Council policies and procedures (i.e. requests for annual leave, sickness reporting etc) are in effect? | | | |
| 4 Have you agreed with the employee appropriate arrangements for maintaining the security of information and complying with the IT Security Policy, the Data Protection and Freedom of Information Acts? | | | |
| 5 Does the employee understand the arrangements for claiming allowances ? (i.e.travel expenses, reimbursement of telephone expenses) | | | |
| 6 Has the homeworking arrangement been discussed with all other members of the team and relevant colleagues? | | | |
| 7 Have the potential problems of social isolation been discussed with the employee ? | | | |
| 8 Has a review date been set to evaluate the success of the homeworking arrangement? | | | |
| 9 Has a Variation to Contract been signed? | | | |

EMPLOYEE-----

MANAGER'S SIGNATURE-----

EMPLOYEE'S SIGNATURE-----

DATE-----

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

08 October 2018

Report of the Director of Central Services

Part 1- Public

Delegated

1 AMENDMENT TO THE SMOKING POLICY

- 1.1** The Council's Insurance officer recently raised a query regarding our policy on allowing e-cigarette/vaping (to be referred to hereafter as e-cigs) charging units to be used on Council premises and the fire risk associated with them. Our insurers own policy is to ban e-cigs and their charging from the workplace altogether because of the potential fire risks.
- 1.2** The Health & Safety Officer was consulted and the matter referred to Personnel who reviewed the current policy and amended the draft (attachment) to incorporate mention of charging units and the necessity that they should be PAT tested before being used in Council offices (para 2.1) and not left unattended.
- 1.3** As Members will note, whilst overtly banning smoking in the offices, the current policy is silent on the use of e-cigs and the inclusion of the mention of charging units could be seen as condoning their use in the offices.
- 1.4** This is has been a sensitive subject in the past, particularly for staff who have used an e-cig in their attempt to quit smoking but as few staff, if any, use an e-cig in the offices, it is unlikely to affect anyone to overtly state that e-cig use is banned in the offices.
- 1.5** The proposed amendments to the Policy have been agreed by your Management Team, and were put to the JECC and there were no objections raised.
- 1.6** Therefore, should Members agree, in addition to the amendments noted above, the following wording has been inserted at para 2.1 of the Smoking Policy in addition to the mention of charging units:

“ ‘Vaping’ or the use of electronic cigarettes is similarly not permitted in any part of the operational premises as defined above. Those using such devices are not required to use the designated smoking areas but may use them outside so long as they do not cause harm or distress, whether actual or perceived, to others.”

1.7 Legal Implications

- 1.7.1 Failure to ensure the safety of any equipment relating to e-cigs could expose the Council to statutory enforcement by the H&S regulatory bodies.

1.8 Financial and Value for Money Considerations

- 1.8.1 There is no financial risk associated with the amendment to the Policy.

1.9 Risk Assessment

- 1.9.1 The risk posed by the amendments to the policy are judged to be minimal.

1.10 Equality Impact Assessment

- 1.11 The amendments to the Policy do not conflict with the Equality Act 2010.

1.12 Policy Considerations

- 1.13 The Health & Safety Policy.

1.14 Recommendations

- 1.14.1 It is recommended that the amendments mentioned at paragraphs 1.2 and 1.6 are endorsed by Members.

Background papers:

contact: Charlie Steel

Nil

Adrian Stanfield
Director of Central Services

TONBRIDGE AND MALLING BOROUGH COUNCIL
SMOKEFREE WORKPLACE AND PUBLIC PLACE POLICY

1. Aims of the Policy

All managers of enclosed workplaces and public places have a responsibility for the maintenance and, where possible, improvement of the health of staff and users of their services and we acknowledge that breathing other people's smoke is both a public health hazard and a welfare issue, proven to cause ill health. This Policy recognises that second-hand smoke adversely affects the health of all employees. It is not concerned with whether anyone smokes but with where they smoke and the effect this has on staff and other members of the public. It is also concerned with the exclusion of preventable carcinogenic substances in the locality of our premises.

We actively encourage employees to refrain from smoking outside the times and circumstances set out in this Policy. However, this falls outside the scope of this Policy.

The Policy seeks to:

Guarantee a healthy working environment and protect the current and future health of employees and members of the public

Guarantee the right of everyone to breathe in air free from tobacco smoke

Comply with Health and Safety Legislation and Employment Law

Raise awareness of the dangers associated with exposure to tobacco smoke

Take account of the needs of those who choose to smoke and to support those who wish to stop

1.1 Introduction

Section 2(2) of the Health and Safety at Work Act 1974 places a duty on employers to:

'...provide and maintain a safe working environment which is, so far as is reasonably practical, safe, without risk to health and adequate as regards facilities and arrangements for their welfare at work.'

The legislation also establishes the new offences of smoking in a smoke-free place or vehicle, failing to display a no-smoking sign and allowing smoking in a smoke-free place or vehicle. Fixed penalties and fines for these offences are included in the regulations.

Further detail on the Health Act 2006 and the regulations associated with this Act is available on www.smokefreeengland.co.uk.

Secondhand smoke – breathing other people's tobacco smoke – has now been shown to cause lung cancer and heart disease in non-smokers, as well as many other illnesses and minor conditions.

This Policy has been prepared in the context of the Council being an enforcement authority in respect of the Smoke-free Regulations. It is thus essential that as an employer and occupier of premises the Council is itself fully compliant with the Regulations.

2. General Principles and Scope

The aims of this Policy are to:

Protect the health of staff and Members

Protect the health of visitors, contractors and users and/or clients of our services

Inform staff and managers of their responsibilities in respect of the Policy

Support smokers to help them cope with increased restrictions on their smoking during the working day

Promote the culture of a smoke-free organisation

This Policy will apply to all Members, staff, visitors, contractors and other persons who enter any of the Council's premises.

2.1 Restrictions on Smoking

Smoking is not permitted in any part of the operational premises or at entrances managed, leased or owned by the organisation at any time, by any person regardless of their status or business with the organisation. By operational premises is meant any building or substantially enclosed public or private area occupied by one or more members of the general public or a workspace whether used by one or more members of staff. Such spaces include lifts, corridors, stairways, lavatories, rest rooms, reception areas or entrances. (An enclosed area is one which has a permanent or semi-permanent roof and has walls (including windows and doors) enclosing more than 50% of its perimeter).

'Vaping' or the use of electronic cigarettes is similarly not permitted in any part of the operational premises as defined above. Those using such devices are not required to use the designated smoking areas but may use them outside so long as they do not cause harm or distress, whether actual or perceived, to others.

Vaping or electronic cigarettes should not be left unattended at any time when being electronically charged and charging units should be PAT (Portable Appliance Tested) tested first before use.

2.2 Visitors

All visitors, contractors and deliverers are required to abide by the smoke-free policy. Staff members are expected to inform visitors of the policy. However they are not expected to enter into any confrontation that may put their personal safety at risk.

2.3 Staff

Staff are only permitted to smoke at unenclosed designated external smoking points during break times that have been agreed with line managers. The smoking points for the Gibson Building and Tonbridge Castle are shown on the attached plans. For other buildings the points will be as notified by management.

2.4 Vehicles

(i) Staff may not smoke in their vehicle, whether provided by the Council or not, while carrying colleagues for work purposes;

(ii) staff may never smoke in their vehicle, whether provided by the Council or not, if it is used by more than one person for work purposes, even if those persons use the vehicle at different times or only intermittently;

(iii) but, other than set out in 2.4 (i) above, staff may smoke in their vehicles, whether provided by the Council or not, if the vehicle is used primarily for the member of staff's private purposes and/or they are the sole user of the vehicle.

2.5 Support for Smokers

Information on stopping smoking with support from local cessation services (Quit smoking courses) will be provided for smokers. The NHS Smoking Helpline number is 0800 169 0169. The helpline can offer advice and support on stopping smoking along with a website at www.gosmokefree.co.uk.

3. Introduction and Implementation of the Policy

Staff, whether employed or voluntary, are personally responsible for complying with this Policy. Responsibility for implementing this Policy rests with senior management. Day-to-day responsibility for its operation lies with line managers. These responsibilities are underpinned by the duties and offences established in the new legislation.

To ensure that everyone understands that smoking is only allowed in designated areas away from access to buildings, clear signs will be displayed indicating smoke free areas and external points where smoking is permitted.

Tenders and contracts will stipulate adherence to this Policy as a contractual condition. Existing contracts will be modified as soon as possible.

Job literature will include reference to the smoke-free policy and indicate that adherence to it will form part of the contract of employment.

3.1 Disciplinary Action

Any member of staff refusing to observe the policy by smoking in unauthorised areas will be liable to Disciplinary Action in accordance with the Disciplinary Procedure and may face enforcement action.

All staff have a role to play in enforcing the policy and are required to deal with any observed or reported breaches. If managers or staff feel apprehensive about their own safety in regard to addressing any breach they should seek management support. It is important to note that primary emphasis should be placed on prevention of such situations arising.

In the event of a breach of the policy by a visitor or staff member of other organisations, they should be asked to extinguish all smoking materials and be informed of the availability of external smoking areas. If they continue to smoke the matter should be referred to the appropriate manager. In the event that staff of other organisations continue to breach the Policy, the appropriate organisation should be advised in writing of the consequences of breaching these requirements.

3.2 Monitoring and Reviewing

The following will be monitored:

That prospective employees are advised of the Policy

That the Policy forms part of the induction programme

That discarded smoking material are disposed of safely

This Policy will be reviewed annually to ensure that it continues to meet the aims of the original Policy.

Comments related to the maintenance of this Policy should be directed to the Director of Central Services.

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

08 October 2018

Report of the Director of Central Services & Monitoring Officer

Part 1- Public

For information

1 REVIEW OF DISPENSATION – CLLR MARK DAVIS

Summary

This report asks Members to note a review of a dispensation granted in October 2016 to enable Councillor Mark Davis to participate in meetings of the Area Planning Committees, the Planning and Transportation Advisory Board and other meetings where the Local Plan is under consideration.

1.1 Introduction

- 1.1.1 On 20 October 2016 the Committee considered a request for a dispensation under the Code of Conduct to enable Councillor Mark Davis to participate in meetings of the Area Planning Committees, the Planning and Transportation Advisory Board and other meetings where the Local Plan was under consideration in circumstances where Councillor Davis would otherwise be required to declare an Other Significant Interest (by virtue of being a partner in Warners Solicitors and having a client of the firm with an interest in the matter under consideration) and leave the room having taken no part in the discussion or vote.
- 1.1.2 It was noted that Councillor Davis did not seek a dispensation to vote on any such reports but sought permission to be allowed to remain in the room and participate in discussions. The grounds for the request for the dispensation were set out in an Annex to the report, which for convenience is attached as **Annex 1**.
- 1.1.3 Consultation had taken place with the two independent persons (who at that time were David Ashton and John Gledhill) in advance of the meeting and their comments were noted. Particular reference was made to the observation raised by Mr Ashton that Councillor Davis could be considered to already have a favoured position by virtue of being a serving member of the Borough Council which could be seen to benefit potential business clients. The Director of Central Services reminded Members that any potential commercial benefits were not the 'test' for the Committee to consider but whether the granting of dispensation was appropriate in all the circumstances, having regard to a number of matters

including the need to promote high standards of ethical conduct whilst at the same time allowing for the efficient and effective administration of Borough Council business.

- 1.1.4 Careful consideration was given to the request for dispensation as set out by Councillor Davis and whether his withdrawing from meetings for potentially having an Other Significant Interest due to his employment status as a partner of Warners Solicitors represented a disenfranchisement for him and local residents. Members felt it important that Councillor Davis should be able to listen to any relevant discussions to aid his understanding of any concerns raised and to enable him to accurately report the Borough Council's views to his constituents. The importance of setting out clear criteria for the dispensation to avoid confusion and to provide transparency for Members and residents was also recognised.
- 1.1.5 The Director of Central Services reminded the Committee of the circumstances under the current Code of Conduct where any Member with an Other Significant Interest had the right to address the meeting (for example via a three minute statement at Area Planning Committees) and that this should apply to Councillor Davis if a dispensation was granted.
- 1.1.6 After careful consideration, it was proposed that dispensation be granted to allow Councillor Davis to remain in the meetings of the:
- Area Planning Committees; and
 - Planning and Transportation Advisory Board, Cabinet and Full Council where the Local Plan was discussed
- to listen to, but not participate in, the debate or vote on the matter in hand. In addition, Councillor Davis would have the right to address the Committee but would not then be permitted to take further part in the discussions, this dispensation to be announced at all relevant Committees to avoid confusion. Finally, there should be a formal review of the dispensation after 12 months to monitor progress.
- 1.1.7 It was therefore resolved that the request for dispensation for Councillor Mark Davis be approved on the grounds set out above and to remain in effect until the next local elections in May 2019, subject to anything arising from the formal review in 12 months.
- 1.1.8 Given the progress of the Local Plan, which was central to the reasons for the grant of the dispensation, the review was held in abeyance until this meeting so as to allow for a considered review of the impact of the dispensation upon Cllr Davis' participation in the process.

1.2 DISPENSATIONS UNDER THE LOCALISM ACT 2011

- 1.2.1 Members will be familiar with the requirements of the Localism Act 2011 and supporting regulations concerning Disclosable Pecuniary Interests (DPI). In addition to the requirement to disclose to the Monitoring Officer the existence of any DPI, Members must also comply with specified requirements where they are present at a meeting of the Council and have a DPI in any matter to be considered, or being considered at the meeting. Specifically, a Member must not
- (1) participate, or participate further, in any discussion of the matter at the meeting, or
 - (2) participate in any vote, or further vote, taken on the matter at the meeting.
- 1.2.2 The Council's adopted Code of Conduct imposes identical requirements in relation to Members with an Other Significant Interest (OSI). The Code further requires that Members with a DPI/ OSI in a matter under consideration must withdraw from the meeting room whenever it becomes apparent that the business is being considered and not seek to improperly seek to influence a decision about that business.
- 1.2.3 Under section 33 of the Localism Act, the Council may, on receipt of a written request to the Monitoring Officer, grant a dispensation to councillors and co-opted members relieving them from restrictions on participating, or participating further, or voting or further voting in meetings where consideration is being given to an item of business in which they have a Disclosable Pecuniary Interest.
- 1.2.4 The Borough Council may grant a dispensation only if, having regard to all relevant circumstances, it 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.
- 1.2.5 A dispensation must specify the period for which it has effect, and the period specified may not exceed four years
- 1.2.6 Under the Council's constitution, dispensations under paragraphs (a) and (d) above may be granted by the Monitoring Officer, in consultation with the Chairman

and Vice-Chairmen of the Joint Standards Committee and the Independent Persons. Dispensations under paragraphs (b), (c) and (e) may only be granted by the General Purposes Committee, in consultation with the Independent Persons. The present request does not fall within paragraphs (a) or (d) and the matter is therefore referred to the General Purposes Committee for consideration.

1.3 Review

- 1.3.1 With the benefit of the agreed dispensation, Councillor Davis has attended a number of meetings of the Area 1 Planning Committee, Planning & Transportation Advisory Board and Council. The Local Plan has of course been reported to a number of meetings since the grant of the dispensation, with Council resolving on 12 September 2018 to approve the Plan for the purposes of public consultations and submission to the Secretary of State in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.3.2 Councillor Davis has been able to listen to, but not participate in, the debate or vote on the matter in hand on each occasion, in circumstances when he would otherwise have been required to leave the room.
- 1.3.3 No issues have arisen from the operation of the dispensation.
- 1.3.4 For completeness I should add that I have consulted the 2 current Independent Persons (David Mercier and Clive Grenyer). Mr Mercier has confirmed that he has no issues with the continuation of the dispensation. Mr Grenyer has not commented on the proposed dispensation as he is personally acquainted with Cllr Davis' family.

1.4 Legal Implications

- 1.4.1 As set out above.

1.5 Financial and Value for Money Implications

- 1.5.1 None arising out of this report.

1.6 Recommendations

- 1.6.1 Members are requested to note the review of the dispensation granted to Councillor Davis. The dispensation will remain in effect until the next local elections in May 2019.

contact: Adrian Stanfield

Adrian Stanfield
Director of Central Services & Monitoring Officer



TONBRIDGE & MALLING

Cllr Mark Davis

Borough Councillor for Cage Green Ward

BOROUGH COUNCIL

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Mr Adrian Stanfield
Director of Central Services and Monitoring Officer
Tonbridge & Malling Borough Council
Gibson Building, Gibson Drive
Kings Hill
West Malling
Kent ME19 4LZ

6 October 2016

Dear Adrian

General Purposes Committee 20 October 2016 Request for Dispensation – Code of Conduct

You have requested that I write to you as Monitoring Officer in support of the application for dispensation to enable me to participate in Council meetings, particularly meetings of the Planning and Transportation Advisory Board and Planning Committee Meetings where I would otherwise have to withdraw from the meeting entirely by virtue of my potentially having an Other Significant Interest.

As a Partner in Warners Solicitors I have hitherto taken the view that I should not participate in proceedings at meetings which involve clients of my firm in case there is a suggestion that I have influenced the decision of the committee for my client's benefit. I accept that there are a number of considerations which would determine whether or not I have an Other Significant Interest in each case but I have tended to take the cautious approach and withdraw when I know a client of my firm to be involved. Although I have on occasion exercised my right to speak before the application is debated by members of the committee and then withdraw.

Originally I simply retired to the public seats during the relevant agenda items and observed the proceedings of the committee from there. But it was brought to my attention that the Code of Conduct required me to withdraw from the meeting completely. As I have discussed with you on occasion in the past, I take the view that this puts me in a worse position than other members of the public and on occasion inhibits my duty to act in the best interests of my client by preventing me from observing the proceedings of the committee and the debate which has led to the decision taken. For example, if the decision is to refuse a planning application submitted by my client I would like to be able to understand the reasons for the decision by listening to the debate with a view to advising my client as to the implications thereof which I would be perfectly entitled to do if I were not a member of the Council.

This has been brought into sharper focus recently relation to agenda items of the Planning and Transportation Advisory Board regarding the Local Plan. I attended and participated in the initial discussion of that board concerning the consultation document but it occurred to

me at that meeting that there may be clients of Warners whose land holdings are affected by the consultation document one way or another and I have subsequently discovered that to be the case. I have therefore not attended subsequent meetings of the Cabinet where the Local Plan has been discussed although I would have liked to have done so. Indeed my specialist field of law is commercial property work which includes advising on development sites, and I believe that my qualifications and experience may well be beneficial to other members who might find my contribution to debate useful.

I therefore seek dispensation from the requirement to leave the room on these occasions and if the General Purposes Committee deems it appropriate to allow me to participate in the debate, although not to take part in any vote.

With kind regards

Yours sincerely

A black rectangular box used to redact the signature of M O Davis.

M O Davis

Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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