



Public Document Pack

TONBRIDGE & MALLING BOROUGH COUNCIL

EXECUTIVE SERVICES

Chief Executive

Julie Beilby BSc (Hons) MBA

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To: MEMBERS OF THE COUNCIL

NB Background reports to items referred from Cabinet and Committees have been omitted from printed agenda packs.

Dear Sir/Madam

I hereby summon you to attend a meeting of the Tonbridge and Malling Borough Council which will be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 25th October, 2022 at 7.30 pm.

Information on how to observe the meeting will be published on the Council's website.

The following business is proposed to be transacted:-

1. Guidance on the Conduct of Meetings 5 - 6

PART 1 - PUBLIC

2. Apologies for absence 7 - 8
3. Declarations of interest

To declare any interests in respect of recommended items

4. Minutes 9 - 14

To confirm as a correct record the Minutes of the meeting of Council held on 12 July 2022

5. Mayor's Announcements 15 - 16
6. Questions from the public pursuant to Council Procedure Rule No 5.6 17 - 18
7. Questions from Members pursuant to Council Procedure Rule No 5.5 19 - 20

8. Leader's Announcements 21 - 22

Matters for Council Decision

9. Political Balance Arrangements for Committees 23 - 28

The report asks Members to determine the political balance arrangements for the Borough Council's committees, sub-committees, boards and panels following the reinstatement of Councillor D Lettington as a member of the Conservative group.

10. Changes to Constitution 29 - 32

The report invites Group Leaders to nominate substitute Members for the Joint Transportation Board.

11. Reports, Minutes and Recommendations 33 - 34

To receive and consider reports, minutes and recommendations from the meetings of the Cabinet and Committees set out in the Minute Book and officers' reports on any matters arising from them, and to receive questions and answers on any of those reports.

Matters for recommendation to the Council are indicated below at items 12 to 16.

12. Local Code of Corporate Governance 35 - 62

Item AU 22/27 referred from Audit Committee of 25 July 2022.

13. Treasury Management Update and Mid-Year Review 63 - 88

Item AU 22/40 referred from Audit Committee of 26 September 2022 and Item AU 22/28 referred from Audit Committee of 25 July 2022.

14. Final Proposals for Review of Polling Districts and Polling Places 89 - 130

Item GP 22/33 referred from General Purposes Committee of 3 October 2022

15. Freedom of Information - Publication Scheme 131 - 148

Item GP 22/34 referred from General Purposes Committee of 3 October 2022

16. Planning Enforcement Review 149 - 180

Item OS 22/32 (2) and (3) in respect of resourcing options, budget growth and fees and charges related to traveller and gypsy incursions referred from Overview and Scrutiny Committee of 6 October 2022 is 'to follow'.

These recommendations will be circulated as soon as possible.

Matters for Information

17. Decision Taken under Urgency Provisions - Kent Business Rates Pool 181 - 188

This report informs Members of an urgent decision, [D220009URG](#), dated 3 October 2022 taken as a departure from the Council's adopted Budget and Policy Framework and in accordance with paragraph 4 of the Budget and Policy Framework Procedure Rules

18. Sealing of Documents

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

Matters for Consideration in Private

19. Exclusion of Press and Public 189 - 190

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

20. Councillor Attendance at meetings 191 - 192

To approve the continued absence of a Member from meetings on ill health grounds.

JULIE BEILBY
Chief Executive
Monday, 17 October 2022

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GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED

- (1) All meetings of the Borough Council will be livestreamed to YouTube here, unless there is exempt or confidential business be discussed:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>
- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on committee.services@tmbc.gov.uk in the first instance.

Attendance:

- Members of the Committee/Advisory Board are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chairman, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee/Advisory Board are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.
- Members of the public addressing an Area Planning Committee can participate in person or online. Please contact committee.services@tmbc.gov.uk for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

Ground Rules:

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

Voting:

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.

Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

Apologies for absence

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TONBRIDGE AND MALLING BOROUGH COUNCIL

COUNCIL MEETING

MINUTES

Tuesday, 12th July, 2022

At the meeting of the Tonbridge and Malling Borough Council held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Tuesday, 12th July, 2022

Present: Her Worship the Mayor (Councillor Mrs S Bell), Cllr Mrs P A Bates, Cllr R P Betts, Cllr V M C Branson, Cllr R I B Cannon, Cllr M A Coffin, Cllr D J Cooper, Cllr A Cope, Cllr M O Davis, Cllr N Foyle, Cllr S M Hammond, Cllr P M Hickmott, Cllr M A J Hood, Cllr F A Hoskins, Cllr S A Hudson, Cllr D Keers, Cllr Mrs F A Kemp, Cllr B J Luker, Cllr P J Montague, Cllr Mrs A S Oakley, Cllr W E Palmer, Cllr M R Rhodes, Cllr H S Rogers, Cllr R V Roud, Cllr J L Sergison, Cllr T B Shaw, Cllr Mrs M Tatton, Cllr M Taylor, Cllr Miss G E Thomas, Cllr F G Tombolis and Cllr C J Williams

(Note: Councillors Mrs Anderson and Dalton were unable to attend in person and participated via MS Teams and were unable to vote on any matters).

Apologies for absence were received from Councillors J R S Lark (Deputy Mayor), M C Base, T Bishop, J L Botten, M D Boughton, P Boxall, G C Bridge, C Brown, A E Clark, D A S Davis, D Harman, N J Heslop, A Kennedy, D W King, N G Stapleton, K B Tanner and D Thornewell.

PART 1 - PUBLIC

C 22/55 DECLARATIONS OF INTEREST

Councillor M Davis declared an Other Significant Interest (OSI) on the matter related to the installation of a PV System at Larkfield Leisure Centre (agenda item 9) on the grounds that he was one of the Borough Council's appointees to the Board of the Tonbridge and Malling Leisure Trust. He withdrew from the meeting during consideration of this item and did not participate in the discussion and voting.

C 22/56 MINUTES

RESOLVED: That the Minutes of the proceedings of the meeting of the Council held on 10 May 2022 be approved as a correct record and signed by the Mayor.

C 22/57 MAYOR'S ANNOUNCEMENTS

The Mayor advised that she had attended a number of engagements since her inauguration and made particular reference to:

- The Royal Garden Party
- The Oaks Specialist College Dance Competition
- Hilden Oaks Prep School Opening of New Building & Jubilee Celebration
- Snodland Town Council's Lightening of the Queens Jubilee Beacon
- Unveiling of Plaque on Jubilee Flower Bed at Larkfield Fire Station
- Coffee Morning at the East Malling Centre
- West Malling Community Choir's Concert
- Tonbridge Lion Club's Fete and Fun Dog Show
- TMBC Baton Event at Tonbridge Castle

The Civic Ceremony would be held at All Saints Church, Snodland at 2pm on 25 September 2022. Details of future charity events would be shared in due course.

Finally, the Mayor thanked the Deputy Mayor for attending a number of events on her behalf.

C 22/58 QUESTIONS FROM THE PUBLIC PURSUANT TO COUNCIL PROCEDURE RULE NO 5.6

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

C 22/59 QUESTIONS FROM MEMBERS PURSUANT TO COUNCIL PROCEDURE RULE NO 5.5

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

C 22/60 LEADER'S ANNOUNCEMENTS

The Deputy Leader provided a number of announcements on behalf of the Leader who had submitted apologies.

There was reference to the importance of building relationships and working in partnership with local authority neighbours, parishes, Kent County Council and central Government.

The Borough Council had recently been awarded the title of the most patriotic council in Kent with more street parties than anywhere else during the Queens Platinum Jubilee weekend. Tribute was made to everyone who had helped celebrate the Jubilee and the teams at the

Borough Council who worked to make sure that all these community events could happen.

Reference was made to the Queens Baton Relay which had passed through Tonbridge ahead of the Commonwealth Games and was a memorable experience for everyone.

The public consultation in relation to the future of Tonbridge Castle and how to make best use of the historic asset for the benefit of future generations had received an excellent response.

Good progress continued to be made on the Climate Change Action Plan with a number of actions completed and demonstrated the commitment from everyone at the Council to meeting climate change aspirations.

Finally, reference was made to the Local Plan and the Regulation 18 Consultation which would take place during the summer months. It was emphasised that no firm decisions had been taken on any sites and it was important for everyone to submit comments so that all views were presented and listened too.

MATTERS FOR COUNCIL DECISION

C 22/61 INSTALLATION OF PV SYSTEM AT LARKFIELD LEISURE CENTRE

The joint report of the Director of Central Services and Deputy Chief Executive and the Director of Street Scene, Leisure and Technical Services set out proposals for the installation of photovoltaic/solar (PV) panels at Larkfield Leisure Centre. It was felt that this represented the quickest and simplest way of reducing utility usage, which was a significant overhead for the Leisure Trust due to the current global economic situation.

Due to it being the largest utility user of all the leisure centres, coupled with the fact that it had large flat roofs on which to mount a PV system, it was felt that Larkfield Leisure Centre was an appropriate facility for this type of installation.

A proposal had been received from a framework contractor (SAS Energy) and this was summarised in 1.3.4 of the report. As a result of the current volatility in the market, SAS Energy would be asked to re-price for the installation if Members agreed that this was the best approach.

In addition, it was proposed that the sports hall flat roof be replaced prior to the installation of the PV system.

A Capital Plan evaluation setting out financial details of the proposals was attached at Annex 2.

Members welcomed the installation of PV/solar panels on the grounds of supporting the Climate Change Strategy, and the aspiration to become carbon neutral by 2030, and potentially producing savings to support the Savings and Transformation Strategy. However, concern was expressed in respect of the sports hall flat roof and it was requested that a certified structural report be provided confirming that the roof could support the weight of PV/solar panels. This was proposed by Councillor Rhodes, seconded by Councillor Taylor and supported unanimously.

RESOLVED: That

- (1) subject to a certified structural assessment report confirming that the sports hall roof would support the weight of PV/solar panels, SAS energy be asked to re-price for the PV proposal;
- (2) if the revised price was within 15% of the original quote, SAS energy be appointed under the Laser procurement framework Y18003 to supply and install the system;
- (3) the Scheme be added to the Capital Plan in 2022/23 with funding being provided from the Climate Change Reserve; and
- (4) the re-felting of the sports hall roof be met from the BRREP reserve with funding of this Plan to be reviewed as part of the forthcoming budget setting process.

C 22/62 WORKFORCE STRATEGY

Item GP 22/20 referred from General Purposes Committee of 15 June 2022

RESOLVED: That

- (1) the outcomes of the equality monitoring as set out in Section 4 of the HR Strategy be noted; and
- (2) the Workforce Strategy be approved.

C 22/63 APPOINTMENTS TO OUTSIDE BODIES

Consideration was given to appointments to the Berry Housing Trust, Stansted and the High Weald Area of Outstanding Natural Beauty. The report of the Director of Central Services and Deputy Chief Executive provided details of the role of the organisations and recommended that Mr Paul Gurney and Mr Richard Hobgin be appointed as trustees to the Berry Housing Trust and Councillor Dave Davis be appointed to sit on

the Joint Advisory Board of the High Weald Area of Outstanding Natural Beauty.

RESOLVED: That

- (1) Mr Paul Gurney be appointed as the Borough Council representative to serve as Trustee to the Berry Housing Trust, Stansted for an indefinite period;
- (2) Mr Richard Hogbin in be appointed as the Borough Council representative to serve as Trustee to the Berry Housing Trust, Stansted for an indefinite period; and
- (3) Councillor D Davis be appointed as the Brough Council representative to serve on the High Weald Area of Outstanding Natural Beauty Joint Advisory Committee for the remainder of the municipal year.

C 22/64 SEALING OF DOCUMENTS

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

The meeting ended at 8.55 pm

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Mayor's Announcements

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Agenda Item 6

Questions from the public pursuant to Council Procedure Rule No 5.6

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Agenda Item 7

Questions from Members pursuant to Council Procedure Rule No 5.5

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Leader's Announcements

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TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

25 October 2022

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Matters For Decision

1 POLITICAL BALANCE ARRANGEMENTS FOR COMMITTEES

This report asks Members to determine the political balance arrangements for the Borough Council's committees, sub-committees, boards and panels following the reinstatement of Councillor D Lettington as a member of the Conservative group.

1.1.1 Under section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) and the Local Government (Committees and Political Groups) Regulations 1990, the Council is required to review the composition of any of its committees and sub-committees to which those provisions apply at the annual meeting of the Council and after any election.

1.1.2 The number of seats held by each of the political parties is as follows:

Group	Total	%
Conservative	37	68.52
Liberal Democratic	9	16.67
Green	4	7.41
Independent Alliance (Kent)	3	5.56
Ungrouped (Cllr Hickmott)*	1	1.85
Total	54	100

*note that for the purposes of the 1989 Act & 1990 Regulations Labour is not a political group at Tonbridge & Malling Borough Council, having less than 2 elected members. Cllr Hickmott is therefore an independent councillor for the purposes of calculating political balance.

1.1.3 The Council is required to determine the composition of its committees to reflect this political balance and to ensure that:

- (a) not all the seats on the committee to which appointments are made are allocated to the same political group;
- (b) the majority of seats on the committee is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;

- (c) subject to (a) and (b), the total number of seats allocated to a particular political group reflects that group's proportion of the membership of the authority;
- (d) subject to (a) and (c) the number of seats on each committee allocated to a particular group reflects that proportion of the membership of the authority.

1.1.4 The duty on the Council is to give effect to the above principles **so far as reasonably practicable**. This recognises that there cannot be an exact application of the rules.

1.1.5 The political group composition of the Council is as follows:

	Conservative Group	Liberal Democrat	Green	Independent Alliance Kent	Ungrouped	Total Seats
No. of seats	88	21	10	7	2	128
%	68.52%	16.67%	7.41%	5.56%	1.85%	100%

1.1.6 The table below shows the number of committees of various sizes which need to be politically balanced and the way in which the total number of available seats might be allocated to reflect the proportions on the Council as a whole. In consequence, it is suggested that those committees requiring to be politically balance be composed as follows:

Committee	Size	Con	Lib Dem	Ind All	Green	Ungrouped
Overview and Scrutiny	18	12	3	1	2	0
Licensing and Appeals	15	10	3	1	1	0
Communities and Environment Scrutiny Select Committee	15	10	2	1	2	0
Finance, Regeneration and Property Scrutiny Select Committee	15	11	3	0	1	0
Housing and Planning Scrutiny Select Committee	15	10	3	1	1	0
General Purposes	14	10	2	1	1	0
Joint Standards	13	9	1	1	1	1

Audit	9	6	1	0	1	1
JECC	9	6	2	1	0	0
Housing Association Liaison Panel	5	4	1	0	0	0
Total Number of Seats	128	88	21	7	10	2
Total Number of Seats Allocated						128

- 1.1.7 As a result of the revised political balance allocation there are consequential changes to the Conservative Group composition of Committees, Boards and Panels/Groups. These are summarised in Annex 1 to the report.

1.2 Legal Implications

- 1.2.1 The Council is required to review the composition of its committees in accordance with the Local Government and Housing Act 1989 (duty to allocate seats to political groups) and the Local Government (Committees and Political Groups) Regulations 1990.

1.3 Financial and Value for Money Considerations

- 1.3.1 Not applicable

1.4 Risk Assessment

- 1.4.1 Not applicable

1.5 Equality Impact Assessment

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

1.6 Policy Considerations

- 1.6.1 Not applicable

1.7 Recommendations

RECOMMENDED that:

- 1.7.1 the composition of all committees, sub-committees and boards be approved in accordance with the table at paragraph 1.1.5 and the Monitoring Officer make any consequential amendments to the Council's constitution in respect of political balance;

- 1.7.2 the consequential changes to the Conservative Group composition of Committees, Boards and Panels/Groups be approved as set out in Annex 1 to the report.

Background papers:

Nil

contact: Allison Parris
Principal Democratic Services
Officer

Adrian Stanfield
Director of Central Services and Deputy Chief Executive

Changes to Committee Appointments – October 2022

Consequential changes to the composition of Committees, Boards and Panels/Groups arising from the revised political balance are set out below:

- (1) General Purposes Committee:
 - Cllr D King replaces Cllr S Bell
- (2) Communities and Environment Scrutiny Select Committee:
 - Cllr D Lettington replaces Cllr Mrs J Anderson
- (3) Licensing and Appeals Committee:
 - Cllr D Keers replaces Cllr R Lettington
- (4) Joint Transportation Board
 - Cllr D Lettington replaces Cllr V Branson

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TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

25 October 2022

Report of the Monitoring Officer

Part 1- Public

Matters For Decision

1 CHANGES TO CONSTITUTION

The report invites Group Leaders to nominate substitute Members for the Joint Transportation Board.

1.1 Background

1.1.1 Members will recall that new rules relating to substitution were agreed at Council in February 2022. For ease of reference the agreed rules are attached as Annex 1.

1.1.2 In May 2022 substitute Members were appointed for each of the following Committees and Panel:-

- Audit Committee
- General Purposes Committee
- Joint Standards Committee
- Overview & Scrutiny Committee plus 3 Scrutiny Select Committees
- Housing Association Liaison Panel
- Joint Employee Consultative Committee (full)

1.1.3 No substitutes were appointed for the Joint Transportation Board (JTB).

1.1.4 Paragraph 2.1 of Schedule 1 to the Joint Transportation Board agreement with Kent County Council expressly allows for the Borough Council to appoint substitutes for its JTB Members.

1.1.5 To ensure that each group is able to deal with unexpected short-term absences of JTB Members, it is proposed that the Group Leaders be invited to nominate up to 5 substitute Members (as set out in paragraph (ii) of Annex 1)

1.1.6 Members are reminded that any substitute members will need to be physically present in the Council Chamber in order for their formal attendance to be recorded and to exercise their right to vote. It will not be possible for substitute members to attend remotely.

1.1.7 No consequential changes are required to the Council and Committee Procedure Rules.

1.2 Legal Implications

1.2.1 None.

1.3 Financial and Value for Money Considerations

1.3.1 None.

1.4 Risk Assessment

1.4.1 The changes proposed in this report will allow for substitutions to take place within a transparent and politically balanced process.

1.5 Equality Impact Assessment

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

1.6 Recommendations

1.6.1 It is **RECOMMENDED** that Council agrees the appointment of substitutes to the Joint Transportation Board, as nominated by the Group Leaders in accordance with paragraph (ii) of Annex 1.

Background papers:

contact: Adrian Stanfield

Adrian Stanfield
Monitoring Officer

Annex 1 – Rules for Substitution

- (i) Subject to the following provisions, a member may act as a substitute for a member of the same political group at any meeting of a Committee, Sub-committee, Advisory Board or Panel listed in Part 3 of the Constitution.
- (ii) The Council will allocate seats for up to 5 substitute members per Committee/ Advisory Panel/ Advisory Board for each political group on the Council in accordance with the wishes of the political group. Allocations shall be made at Annual Council but may be reviewed on request from a political group at any ordinary meeting of Council.
- (iii) No substitute members shall be appointed in respect of the following:-
 - Cabinet
 - Licensing & Appeals Committee (or any panels of the Licensing & Appeals Committee)
 - Area Planning Committees
- (iv) Cabinet members may not act as substitute members on the following:-
 - Audit Committee
 - Overview & Scrutiny Committee
 - Advisory Boards
- (v) A substitute member may only attend a meeting if the ordinary member for whom they are substituting cannot do so. Such substitute may take the place with the right to speak and vote of any member of that political group who is an ordinary member of the particular Committee or Advisory Board for the meeting (or part of the meeting) when such councillor is absent, subject to the substitution being notified to Democratic Services or his or her nominee:
 - when the first item is called on the agenda;
 - at the commencement of a reconvened meeting; or
 - immediately upon the substitute member arriving at the meeting;
- (vi) Once the meeting has been informed of the appointment of a substitute Member, the original Member may not resume membership of the Committee until after the conclusion of the meeting.
- (vii) Such substitution shall not be used in relation to a specific item, but only to cover the absence of a councillor from the whole or part of a meeting.
- (viii) Substitute Members will have all the powers and duties of any ordinary member of the Committee or Advisory Board but will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

- (ix) Substitute Members must be physically present in the Council Chamber in order for their formal attendance to be recorded and to exercise their right to vote. Substitute members may not attend remotely.

Schedule JULY – OCTOBER

The Minutes from meetings of the Cabinet and Committees held since the last meeting of Council are set out in the Minute Book.

Any recommendations for Council arising from these Minutes are identified in the Minute Book by an arrow and for ease of reference the relevant page and referral numbers are identified (in bold) in the Schedule set out below:

Meeting	Page Nos in Minute Book	Recs to Council/ Chairman
7 July 2022: Overview and Scrutiny Committee - Minute Numbers: OS 22/21-28	5-8	Cllr A Oakley
12 July 2022: Council - Minute Numbers: C 22/55-64	9-14	N/A
14 July 2022: Area 3 Planning Committee - Minute Numbers: AP3 22/1-6	15-18	Cllr M Base
18 July 2022: General Purposes Committee - Minute Numbers: GP 22/24-29 -	19-22	Cllr M Rhodes
19 July 2022: Housing and Planning SSC - Minute Numbers: HP 22/1-8	23-36	Cllr J Botten
20 July 2022: Communities & Environment SSC - Minute Numbers: CE 22/1-6	27-30	Cllr S Hudson
25 July 2022: Audit Committee - Minute Numbers: AU 22/24-36	31-36	AU 22/27; AU 22/28 Cllr Mrs A Kemp
26 July 2022: Finance, Regeneration & Property SSC - Minute Numbers: FRP 22/1-8	37-40	Cllr R Cannon
Executive Member Decisions - D220062MEM – D220066MEM (Note: D220063MEM not used)	41-48	N/A
4 August 2022: Cabinet (Extraordinary) - Minute Numbers: C 22/76-78	49-50	Cllr M Boughton
Cabinet Decision: - D220067CAB	51-52	N/A

Meeting	Page Nos in Minute Book	Recs to Council/ Chairman
10 August 2022: Area 2 Planning Committee - Minute Numbers: AP 2 22/28-32	53-56	Cllr H Rogers
18 August 2022: Area 3 Planning Committee - Minute Numbers: AP3 22/17-12	57-58	Cllr D Cooper
Executive Member Decisions: - D220068MEM – D220078MEM	59-80	N/A
6 September 2022: Housing and Planning SSC - Minute Numbers: HP 22/9-14	81-84	HP 22/12 Cllr J Botten
7 September 2022: Cabinet - Minute Numbers: C 22/79-92	85-94	Cllr M Boughton
Cabinet Decisions: - D220079CAB – D220088CAB	95-108	N/A
26 September 2022: Audit Committee - Minute Numbers: AU 22/37-44	109-112	AU 22/40 Cllr Mrs A Kemp
27 September 2022: Licensing & Appeals Cmtte - Minute Numbers: LA 22/23-28 -	113-114	Cllr C Brown
29 September 2022: Area 3 Planning Committee - Minute Numbers: AP3 22-13-17	115-116	Cllr D Cooper
Executive Member Decisions: - D220089MEM – D220092MEM	117-124	N/A
3 October 2022: General Purposes Committee - Minute Numbers: GP 22/30-36	125	To Follow
6 October 2022: Overview & Scrutiny Committee - Minute Numbers: OS 22/29-36		To Follow

Items marked 'to follow' will be published as a Supplement to the Minute Book.

LOCAL CODE OF CORPORATE GOVERNANCE

Item AU 22/27 referred from Audit Committee of 25 July 2022

The joint report of the Chief Executive and the Director of Central Services informed Members of the outcome of the annual review of the Local Code of Corporate Governance. Particular attention was drawn to the consequences for the Local Code of the LGA Peer Review Challenge 2022, changes to the executive governance arrangements, the adoption of a new Kent Code of Conduct for Councillors and an internal audit of the Local Code of Corporate Governance.

RECOMMENDED: That the amendments to the Local Code of Corporate Governance, as set out at Annex 1 to the report, be approved and commended to Council for adoption.



***Referred to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

25 July 2022

Report of the Chief Executive and Director of Central Services

Part 1- Public

Matters for Recommendation to Council

1 LOCAL CODE OF CORPORATE GOVERNANCE

This report informs Members of the outcome of the annual review of the Local Code of Corporate Governance.

1.1 Introduction

1.1.1 Since the last review of the Local Code of Corporate Governance took place in July 2021, a number of activities have taken place which have had consequences for the Local Code, including:

- The LGA Peer Review Challenge 2022;
- Changes to executive governance arrangements;
- Adoption of a new Kent Code of Conduct for Councillors; and
- An internal audit of the Local Code of Corporate Governance

1.1.2 The LGA Peer Review Challenge made a number of recommendations, including refocussing the Corporate Strategy and updating the HR/ Workforce Strategy, and these are reflected in the updated Code.

1.1.3 In May 2022, the Council's Leader adopted new executive governance arrangements including the setting up of three Scrutiny Select Committees. These changes to the Council's constitutional arrangements need to be accounted for in the Code.

1.1.4 The Council has adopted the revised Kent Code of Conduct for Councillors, following a Kent-wide review of the new LGA model code. This change is also reflected in the updated Code.

1.1.5 In April/ May, internal Audit reviewed the Local Code, giving an overall audit opinion of "substantial". The only outstanding action from that review was to

remove reference to the Partnership Strategy which was not pursued. That change is made in the amended Code. The current version of the Local Code has been published on the Council's website alongside the Corporate Strategy, and it is intended that this practice will continue.

1.2 Legal Implications

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

1.3 Financial and Value for Money Considerations

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

1.4 Risk Assessment

- 1.4.1 Adoption of a Local Code of Corporate Governance is seen as good practice in that it demonstrates how the Council ensures it operates in a proper way and in accordance with the law and as such is subject to annual review to ensure it remains fit for purpose. Not to do so may attract unwelcome criticism.

1.5 Equality Impact Assessment

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

1.6 Recommendations

- 1.6.1 Members are asked to **approve** the amendments to the Local Code of Corporate Governance set out at **Annex 1** and **commend** it to Council for adoption.

Background papers:

contact: Kevin Toogood

CIPFA/SOLACE – “Delivering Good Governance in Local Government Framework 2016”

Julie Beilby
Chief Executive

Adrian Stanfield
Director of Central Services

Local Code of Corporate Governance	Supporting Evidence
1. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law.	
1.1 Behaving with Integrity	
Ensuring members and officers behave with integrity and lead a culture where acting in the public interest is visibly and consistently demonstrated thereby protecting the reputation of the organization	<p>The Council has Codes of Conduct for both Members and Officers. The Member code is founded upon the seven Principles of Public Life (the Nolan Principles). <u>The members Code of Conduct was reviewed on a Kent-wide basis in 2021/22 and the Council adopted the amended Kent code on 27th April 2022.</u></p> <p>The <u>Members code</u> is enforced (where necessary) through the Council's Joint Standards Committee. The Officer code is enforced (where necessary) through disciplinary procedures.</p> <p>In addition the Council has:</p> <ul style="list-style-type: none"> • An Equalities Policy • a protocol for member/ officer relations • A Declaration of Interest Register for Members and for staff • A Register of Gifts and Hospitality offered to Members and staff • Financial Procedure Rules • Contracts Procedure Rules • A publicised complaints procedure • A fraud-aware culture, and an anti-fraud and corruption policy which is reviewed and updated annually.
Ensuring members take the lead in establishing specific standard operating principles or values for the organization and its staff and that they are communicated and understood. These should build on the Seven Principles of Public Life	<p>The Council's constitution sets out clearly the standard operating procedures, and any delegation of responsibility from Council (and Cabinet) and the decision making powers of the Council, <u>cabinet and its committees and boards, Cabinet members, cabinet and the committees of the Council and the executive.</u></p> <p><u>The Council's Cabinet and Overview and Scrutiny Committee have established a Cabinet/ Scrutiny protocol which sets out the expectations that each body has of the other.</u></p> <p>The Seven Principles of Public Life are embedded within the Constitution and form part of the Members' Code of Conduct.</p>
Demonstrating, communicating and embedding the standard operating	The Council's constitution clearly sets out the process for holding the executive to account

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principles or values through appropriate policies and processes which are reviewed on a regular basis to ensure that they are operating effectively	<p>through <u>the debate of items at committees, and a system of reporting to the Council's Overview & Scrutiny committee and the Scrutiny Select Committees.</u></p> <p>The Council has a Corporate Strategy for 2020-2023 which sets out an overarching vision for the Council. <u>Following the Council's Peer Review Challenge 2022, the Council is due to review its strategic aims, with a view to producing a revised Corporate Strategy in 2022</u></p> <p><u>The Council is also in the process of developing improved internal communications processes in light of recommendations made by the Peer Review team.</u></p>
1.2 Demonstrating Strong Commitment to Ethical Values	
Seeking to establish, monitor and maintain the organisation's ethical standards and performance	<p>The Council has a number of policies and Codes which officers and members are expected to adhere to:</p> <ul style="list-style-type: none"> • A Code of Conduct for Members and Officers • An Equalities Policy • A Declaration of Interest Register for Members and for staff • A Register of Gifts and Hospitality offered to Members and staff • Financial Procedure Rules • Contracts Procedure Rules • an anti-fraud and corruption policy • a Standards Committee to promote and maintain high standards of conduct by Members
Underpinning personal behaviour with ethical values and ensuring they permeate all aspects of the organisation's culture and operation	<p>The Code of Conduct for Members is enforced through the Standards process.</p> <p>Where members of staff depart from the officer Code of Conduct or other policies, these may be enforced through disciplinary measures.</p>

	<p><u>The Monitoring Officer and Deputy Monitoring Officer are available to provide advice to Members and staff on all aspects of standards of conduct and lawful and ethical behaviour.</u></p> <p><u>Professional officers are also accountable to their respective professional bodies and any applicable Codes of Conduct.</u></p>
Developing and maintaining robust policies and procedures which place emphasis on agreed ethical values	<p>The Council has robust arrangements in place to ensure that it does the right things, for the right people in a timely, inclusive, open, honest and accountable manner. These are monitored and publicized through:</p> <ul style="list-style-type: none"> • The Council's performance reporting arrangements • Procedures for recruitment and training • Decision making practices <u>(including requirements for the publication of officer decisions)</u> • <u>Data transparency arrangements, such as</u> • <u>publication of decisions and committee meeting minutes</u> • <u>Data transparency arrangements, such as the Council's Publication Scheme under the Freedom of Information Act 2000 and data published in accordance with the Local Government Transparency Code</u> • <u>Partnership governance arrangements</u>
Ensuring that external providers of services on behalf of the organization are required to act with integrity and in compliance with ethical standards expected by the organisation	<p>The Council's Contracts Procedure Rules require standard terms to be included in all contracts, including provisions relating to bribery, equalities and fraud.</p>
1.3 Respecting the Rule of Law	
Ensuring members of staff demonstrate a strong commitment to the rule of law as well as adhering to relevant laws and regulations	<p>The Council actively recognises the requirements and responsibilities placed on it by law and will act to observe all specific legal requirements placed upon it when taking decisions.</p>

	<p>Training is provided to new members of staff appropriate to their roles, and ongoing training (in particularly in relation to regulatory functions) is also provided on both an ad hoc and programmed basis.</p> <p>This is underpinned by a series of policies and processes to ensure that staff adhere to legal requirements including:</p> <ul style="list-style-type: none"> • a Code of Conduct for Members and Officers • A Declaration of Interest Register for Members and for staff • A Register of Gifts and Hospitality offered to Members and staff • Financial Procedure Rules • Contracts Procedure Rules • an anti-fraud and corruption policy
Creating the conditions to ensure that the statutory officers, other key post holders and members are able to fulfil their responsibilities in accordance with legislative and regulatory requirements	<p>Training is provided to new members upon election, and ongoing training (in particularly in relation to regulatory functions) is also provided on both an ad hoc and programmed basis.</p> <p>The Council's Monitoring Officer (the Director of Central Services & Deputy Chief Executive) and Deputy Monitoring Officer (the Head of Legal & Democratic Services), both of whom are qualified Solicitors with current practising certificates are responsible for ensuring that the Council acts in accordance with the law and that decisions made by the Council, however made, are made lawfully.</p> <p><u>The Council has appointed Deputies to each of the statutory officer posts to ensure resilience and also to ensure that those officers can act in the event of a conflict of interest arising.</u></p>
Striving to optimize the use of the full powers available for the benefit of citizens, communities and other stakeholders	<p>All departments are encouraged to work closely with the Council's legal team and where necessary to consult the Monitoring Officer to ensure that the most effective use is made of the Council's powers.</p> <p>Legal staff receive regular training and updates when new powers become available to the Council.</p>

	<p>The Council also strives to utilise its statutory powers to work in the public interest and to the full benefit of its citizens, particularly in relation to regulatory activity.</p> <p>All committee reports include a section to ensure any legal implications are fully analysed when making decisions.</p> <p>In addition, many committees (in particular where the Council is carrying out regulatory functions) sit with a legal advisor.</p>
Dealing with breaches of legal and regulatory provisions effectively	<p>Staff in enforcement roles are appropriately trained and (where necessary) professionally qualified in the relevant field.</p> <p>The Council has individual service enforcement policies which set out how breaches are to be investigated and enforced. The Council has also adopted a Corporate Enforcement Policy.</p> <ul style="list-style-type: none"> - Investigations are carried out with the assistance of legal advice where needed. Any prospective prosecution is assessed in accordance with the Code for Crown Prosecutors and considered by a senior lawyer before a decision is made. <p>Enforcement staff are encouraged to work closely with the Council's legal team to ensure that the most effective use is made of the enforcement powers available to the Council.</p> <p>In committees where the Council is carrying out a regulatory function, the committee usually sits with a legal advisor.</p> <p>The Council has appointed a Data Protection Officer and Deputy Data Protection Officer, in accordance with GDPR, to ensure that following an internal investigation data breaches are reported to the ICO where necessary. The posts of Data Protection Officer and Deputy Data Protection Officer are currently undertaken by the Director of Central Services & Deputy Chief Executive, and the Head of Legal & Democratic Services.</p>
Ensuring corruption and misuse of power are dealt with effectively	<p>The Council takes corruption and misuse of power very seriously. The Council has an anti-fraud and corruption strategy and a whistleblowing policy in place.</p> <p>In addition, the Council has a Joint Standards Committee and Code of Conduct for Members which investigates complaints against members (both at Borough and Parish level).</p>

	<p>The Council's Monitoring Officer and Deputy Monitoring Officers are responsible for ensuring that the Council acts in accordance with the law.</p> <p>All staff are required to confirm their acceptance of all policies, including the anti-fraud and corruption and whistleblowing policies through netConsent. Such policies are ultimately enforceable through disciplinary measures.</p> <p>Internal audit also carry out programmed audits on matters such as corporate crime.</p>
2. Ensuring openness and comprehensive stakeholder engagement	
2.1 Openness	
Ensuring an open culture through demonstrating, documenting and communicating the organization's commitment to openness	<p>The Council follows both the mandatory and (where cost effective) recommended provisions of the Local Government Transparency Code for publication of information held by the Council, and has a detailed scheme of publication under the Freedom of Information Act. In addition, in relation to certain decisions made at officer level, the Council has implemented the requirements of the Openness in Local Government Regulations 2014.</p>
Making decisions that are open about actions, plans, resource use, forecasts, outputs and outcomes. The presumption is for openness. If that is not the case, a justification for the reasoning for keeping a decision confidential should be provided	<p>The Council has an adopted and published Corporate Strategy for 2020-2023 which sets out the Council's vision for a 3-year period, which is supplemented by a Corporate Strategy Addendum, setting out the Council's strategy for recovering from the effects of the Coronavirus pandemic.</p> <p><u>Following the outcomes of the Peer Review Challenge 2022 the Council is due to review its corporate priorities and publish a new Corporate Strategy in 2022</u></p>

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	<p>The Council has established arrangements to communicate and consult with Members of the public on the Council's work and key policy changes and this consultation allows the development of strategic priorities and the Corporate Strategy.</p> <p>The Council's Constitution sets out clearly the decision-making powers of:</p> <ul style="list-style-type: none"> • The Council • The Cabinet (including the Executive Leader and delegated decision-making to the Cabinet Portfolio Holders), • Other Council committees; and • powers delegated to officers and the limits of such delegation <p>The Overview and Scrutiny Committee <u>and the Scrutiny Select Committees</u> are responsible for reviewing and scrutinizing decisions made by and performance of the cabinet, committees and officers. Decisions made by cabinet, committee or a cabinet member can be subjected to scrutiny via a call-in procedure allowing challenge within five working days of the decision being taken. Feedback from the Overview and Scrutiny Committee/ <u>Scrutiny Select Committees</u>, Cabinet, <u>and other</u> Committees <u>and Advisory Boards</u> is taken into account and given due consideration in the decision-making process.</p> <p>Forthcoming key decisions are published in advance at regular intervals. All Member meetings held by the Council are open to the public, unless the items being discussed are considered to be private under the Local Government Act 1972; these may include staffing and legal matters and those of a contractual nature. Where such an exemption applies, it is recorded in the relevant report and minute.</p>
Providing clear reasoning and evidence for decisions in both public records and explanations to stakeholders and being explicit about the criteria, rationale and considerations used. In due course, ensuring that the impact and consequences of those decisions are clear.	Reports to members set out all relevant considerations in order to ensure that any decision taken is rational and lawful. In addition, reports of certain officer level decisions are required to be published under the Openness in Local Government Regulations 2014.
Using formal and informal consultation and engagement to determine the most appropriate and effective interventions/ courses of action.	The Council carries out consultation where this is a legal requirement.
2.2. Engaging comprehensively with institutional stakeholders	

<p>Effectively engaging with institutional stakeholders to ensure that the purpose, objectives and intended outcomes for each stakeholder relationship are clear so that outcomes are successfully achieved and sustainably.</p>	<p>The Council's Corporate Strategy 2020/23 outlines the means by which local stakeholders (including institutional stakeholders) will be engaged and how constructive, challenging relationships will be built.</p> <p>The Council has put in place Committees / Boards with cross-party representation to ensure effective and robust discussion of issues.</p> <p><u>The Council has a Parish Partnership Panel, the Tonbridge Community Forum and a Joint Transportation Board which ensure that the Council can effectively engage with external stakeholders, including institutional stakeholders such as Parish Councils and the County Council.</u></p> <p>The Council also has an Overview and Scrutiny Committee <u>and three Scrutiny Select Committees</u> to scrutinise decisions made <u>(or which are due to be made)</u> by Cabinet, <u>and which has the ability to make recommendations (which could include recommendations on stakeholder engagement) to Cabinet.</u></p>
<p>Developing formal and informal partnerships to allow for resources to be used more efficiently and outcomes achieved more effectively</p>	<p>The Council has a number of partnerships<u>seeks to utilise, such as</u> Shared Service and Joint Working arrangements which are intended to share resources with neighbouring authorities where these will to improve efficiency and economic sustainability.</p> <p><u>Outside of such formal arrangements, Council officers have access to Kent-wide service groups such as Kent Chief Executives and Kent Chief Planners which allow for joint sharing of good practice and knowhow.</u></p>
<p>Ensuring that partnerships are built on trust, a shared commitment to change, a culture that promotes and accepts challenge among partners and that the added value of partnership working is explicit</p>	<p>The Council is in the process of developing a partnership policy to guide these principles and ensure that any partnership adheres to these values.</p> <p><u>The informal Kent-wide service groups enable relationships to be built with other Kent authorities such that as and when partnership arrangements such as joint working are carried out, they are based on each organisations knowledge and trust of the other.</u></p>

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2.3 Engaging with individual citizens and services users effectively.	
Establishing a clear policy on the type of issues that the organization will meaningfully consult with or involve communities, individual citizens, service users and other stakeholders to ensure that service (or other) provision is contributing towards the achievement of intended outcomes	<p>The Council is clear that it is ultimately accountable to the citizens of Tonbridge & Malling. The Council has a good understanding of who lives, works and plays in the borough and has mechanisms to listen to and respond to their needs, aspirations and concerns.</p> <p>All consultations are published on the Council's website. When considering consultation responses, the Council's decision considers the merit of the responses being made, regardless of the nature of the stakeholder group. The Council carries out consultation when legally required to do so.</p> <p>All reports and decisions include an equalities impact assessment which takes into account whether a decision would have a disproportionate impact on a certain section of society.</p>
Ensuring communication methods are effective and that members and officers are clear about their roles with regard to community engagement	<p>All consultations are published on the Council's website, and where legally required, are advertised in a relevant newspaper.</p> <p>The Council's constitution sets out the roles of members, and (in particular) cabinet members and their roles with regard to community engagement.</p> <p>Public-facing staff receive training relevant to their roles to ensure that their community engagement roles are clear.</p>
Encouraging, collecting and evaluating the views and experiences of communities, citizens, service users and organisations of different backgrounds including reference to future needs.	<p>The Council has taken action to develop and support effective engagement opportunities with all groups of the local community:-</p> <ul style="list-style-type: none"> The Council engages with the Parishes and unparished areas through the Parish Partnership Panel and Tonbridge Community Forum

	<ul style="list-style-type: none"> The Council promotes the TM Youth Forum that represents the views of young people living in Tonbridge and Malling The Council supports the Tonbridge & Malling Seniors' Forum (TAMS) which promotes and the needs of the older resident. <u>The Council engages with other key stakeholders through a number of partnerships that the Council has embarked upon.</u> The Council actively uses complaints received to learn and improve services, whether through the internal complaints system or via the Ombudsman. The Council operates a petition scheme whereby matters of significant local interest can be raised for discussion at full Council.
Implementing effective feedback mechanisms in order to demonstrate how views have been taken into account.	<p>Consultation responses are reported upon to the relevant <u>decision making person or bodycommittee or board</u> where <u>Members that person or body</u> have an opportunity to consider feedback received and how best to respond to such feedback.</p> <p>The Council also has in place a complaints procedure.</p>
Balancing feedback from more active stakeholder groups with other stakeholder groups to ensure inclusivity	When considering consultation responses, the Council's decision considers the merit of the responses being made, regardless of the nature of the stakeholder group.
Taking account of the impact of decisions on future generations of tax payers and service users.	All reports and decisions include an equalities impact assessment which takes into account whether a decision would have a disproportionate impact on a certain section of society. <u>All reports also include a consideration of the financial implications (both short and long term) of matters which are being recommended for a decision.</u>
3. Defining outcomes in terms of sustainable economic, social and environmental benefits.	
3.1 Defining Outcomes	
Having a clear vision, which is a clear formal statement of the organisation's purpose and intended outcomes containing appropriate performance indicators, which provide the basis for the organisation's overall strategy planning and other decisions	There is a clear statement of the organisation's purpose in the Tonbridge & Malling Borough Council Corporate Strategy 2020-23. This document sets out the key priorities for the authority and how the Council will work with a range of partners and the local communities towards achieving the objectives.

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Specifying the intended impact on, or changes for, stakeholders including citizens and service users. It could be immediately or over the course of a year or longer	<p>Committee reports all contain an assessment of risk of the options being presented for a decision. Additionally, the Audit Committee has a role in scrutinizing corporate risk.</p> <p>Where any decision is recommended, reports contain an analysis of the intended impact or changes for stakeholders and the timescale on which that is anticipated to happen. Decisions which may have a disproportionate impact on a certain section of society are subject to an Equalities Impact Assessment.</p>
Delivering defined outcomes on a sustainable basis within the resources that will be available	The Council's Medium Term Financial Strategy covers both revenue and capital budgets, and it is this strategy that underpins the budget setting process for the forthcoming year and over the strategy period. The aim of the MTFS is to give us a realistic and sustainable plan that reflects the Council's priorities and takes us into the future. Alongside the MTFS sits a Savings and Transformation Strategy. Its purpose, to provide structure, focus and direction in addressing the significant financial challenge that lies ahead.
Identifying and managing risks to the achievement of outcomes	<p>The Council has arrangements in place to effectively monitor and manage risks to its business through the risk management strategy and strategic and service risk registers.</p> <p>Committee reports all contain an assessment of risk of the options being presented for a decision. Additionally, the Audit Committee has a role in scrutinizing corporate risk.</p>
Managing service users' expectations effectively with regard to determining priorities and making the best use of the available resources	The Council is accountable to the citizens of Tonbridge and Malling in delivering its duties and responsibilities. The Council manages relationships with partners and consults the public through a number of mechanisms, including regular reporting to members, partnership arrangements (supported by partnership agreements) and the provisions of the Council's constitution.
3.2. Sustainable economic, social and environmental benefits.	
Considering and balancing the combined economic, social and environmental impact of policies and plans when taking decisions about service provision	Value for money considerations are set out in all committee reports, and the Council's external auditors have consistently found that the Council does give value for money. The social impact of decisions is considered throughout the decision-making process, including the carrying out of an Equalities Impact Assessment where it is

	<p>considered that a recommendation may have a disproportionate impact on a particular section of society.</p> <p>Where relevant, policies are subject to Strategic Environmental Impact Assessment prior to adoption.</p> <p>The Council -adopted a Climate Change strategy in 2020. <u>The in-year action plans for 2020/21 and 21/22 were approved by the Council's executive. A further action plan for 22/23 is due to be adopted shortly. The in-year action plans set out climate change targets for the Council for that year along with timetables for implementation. -along-with-a-one-year-action plan for 2020/21. A further action plan for 2021/22 has been approved by the Council's executive.</u></p>
Taking a longer-term view with regard to decision making, taking account of risk and acting transparently where there are potential conflicts between the organisation's intended outcomes and short-term factors such as the political cycle or financial constraints.	The Corporate Strategy, together with the Medium Term Financial Strategy and supported by the Savings and Transformation Strategy set out the long term high level objectives of the Council.
Determining the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs	Council, Committee and advisory board reports set out all relevant considerations to enable members to make decisions which are appropriate and lawful.
Ensuring fair access to services	The Council has an equalities policy which seeks to ensure fair access to the Council's services by all sections of society.

4. Determining the interventions necessary to optimize the achievement of the intended outcomes	
4.1. Determining interventions.	
Ensuring decision makers receive objective and rigorous analysis of a variety of options indicating how intended outcomes would be achieved and associated risks, therefore ensuring best value is achieved however services are provided.	<p>Decision making mechanisms are set out in detail in the Council's constitution. Whether a decision is at council, cabinet or committee level it is informed by a report encompassing advice from relevant services across the Council.</p> <p>Where relevant, alternative options are presented within committee reports, with an assessment of the benefits and disadvantages of those options.</p> <p>The Council's enforcement policies will inform a decision where legal or regulatory action is an option and reports will detail the legal implications of such action.</p>
Considering feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources available including people, skills, land and assets and bearing in mind future impacts	<p>Where appropriate, the Council carries out consultation with stakeholders, which is taken into account in the decision-making process. Consultations are published on the Council's website, or where statutory rules apply to such consultation those rules are followed.</p> <p>In addition, the Council uses its complaints procedure to understand where services can be improved.</p>
4.2 Planning Interventions	
Establishing and implementing robust planning and control cycles that cover strategic and operational plans, priorities and targets	<p>Strategic and operational plans (such as the Corporate Strategy) are reviewed on a regular basis.</p> <p>Feedback from consultations is taken into account in the decision-making process and reported to the relevant committee, cabinet or Council meeting.</p> <p>The Savings & Transformation Strategy (STS) has been prepared in order to support the achievement of the Council's Medium-Term Financial Strategy and direct resources in line with the Council's Corporate Strategy. The STS recognizes that there is no one simple solution to addressing the financial challenges, and that the Council needs to embrace transformation in a multitude of ways in order to deliver savings within an agreed timetable. The STS sets out a measured structure and framework for delivering the necessary savings</p>

	through a series of themes; each theme having a deliverable target.
Engaging with internal and external stakeholders in determining how services and other courses of action should be delivered	The Corporate Strategy, medium term financial strategy and other key policies are set by cabinet or the Council following input from all service directors and the Chief Executive.
Considering and monitoring risks facing each partner when working collaboratively, including shared risks	Reports on proposals for shared services contain a risk assessment, and risks are mitigated through the shared service agreements.
Ensuring arrangements are flexible and agile so that mechanisms for delivering goods and services can be adapted to changing circumstances	<p><u>The Council has a internal procurement officers' group which meets to consider the Council's contracting arrangements.</u></p> <p>The Council's Contract Procedure Rules and standard contract terms are reviewed regularly to ensure they are up to date with current best practice.</p>
Establishing appropriate Key Performance Indicators as part of the planning process in order to identify how the performance of services and projects is to be measured.	Performance indicators are monitored within each service and reported to Management Team where appropriate.
Ensuring capacity exists to generate the information required to review service quality regularly	It is the responsibility of service directors and Management Team to ensure sufficient capacity exists.
Preparing budgets in accordance with objectives, strategies and the medium-term financial plan	<p>The Council's Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets, and it is this Strategy that underpins the budget-setting process for the forthcoming year and over the strategy period.</p> <p>Budgetary control is undertaken on a monthly basis by services, who report known variations to Financial Services. These variations along with detailed monitoring of the Council's Salary Budget and Major Income Streams are reported to the Corporate Management Team and then onto Members via the Finance, Innovation and Property Advisory Board as part of the cycle of Councils meetings programme.</p>
Informing medium and long-term resource planning by drawing up realistic estimates for revenue and capital expenditure aimed at developing a sustainable funding strategy	<p>The Council's Medium Term Financial Strategy (MTFS) covers both revenue and capital budgets, and it is this Strategy that underpins the budget setting process for the forthcoming year and over the strategy period.</p> <p>The Strategy sets out the high level financial objectives the Council wishes to fulfil over the agreed time span. The Strategy also sets out, based on current financial information, not only the projected budgets for the period,</p>

	<p>but also the levels of council tax that are projected to be required to meet the Council's spending plans.</p> <p>The aim of the MTFS is to give us a realistic and sustainable plan that reflects the Council's priorities and takes us into the future. Underneath the Strategy sits detailed estimates formulated in conjunction with Services taking into account past outturn, current spending plans and likely future demand levels / pressures. It is acknowledged that circumstances will change and for this reason the Strategy needs to, and will, be kept under regular review.</p>
4.3 Optimising achievement of intended outcomes	
Ensuring the medium term financial strategy integrates and balances service priorities, affordability and other resource constraints	The medium-term financial strategy is aligned with the Corporate Strategy. Service priorities are aligned to the Corporate Strategy.
Ensuring the budgeting process is all-inclusive, taking into account the full cost of operations over the medium and longer term	<p>The budget monitoring process considers both revenue and capital budgets.</p> <p>Budget for the following financial year and longer term financial planning through the MTFS takes account of the impacts for service delivery through potential changes in client base, housing need and levels.</p> <p>The MTFS takes into account changes in Government Funding where these are known. Where these factors are unknown these are judged by officers and shared and confirmed with Members.</p>
Ensuring the medium-term financial strategy sets the context for ongoing decisions on significant delivery issues or responses to changes in the external environment that may arise during the budgetary period in order for outcomes to be achieved while optimizing resource usage	<p>In considering the preparation of the Budget for the current and future financial years, Chief Officers are asked to identify potential growth issues and savings for future years that can be assessed and included with the MTFS.</p> <p>This may include changes in demand for services, including the growth in property, and proposed changes in fees and charges.</p>
Ensuring the achievement of "social value" through service planning and commissioning	The Council has a Social Value Policy Statement. Whilst the issues of cost and quality remain of key concern, the concept of social value means that where appropriate, the Council can seek to achieve added social benefits in its procurement processes that may otherwise not have been achieved by other means.

5. Developing the entity's capacity, including the capability of its leadership and the individuals within it	
5.1. Developing the entity's capacity	
Improving resource use through appropriate application of techniques such as benchmarking and other options to determine how resources are allocated so that defined outcomes are achieved effectively and efficiently	<p>The Council works towards improving value for money through:</p> <ul style="list-style-type: none"> • Exploration of innovative ways of working including potential for joint-working and shared services • Robust budgeting and financial monitoring arrangements including detailed reviews of budgets and potential savings opportunities • Internal and external audit • Publication of annual budget and accounts information
Recognizing the benefits of partnerships and collaborative working where added value can be achieved	The Council works in partnerships with other authorities in Kent. A commitment to working in partnership is one of the Council's stated Corporate Objectives.
Developing and maintaining an effective workforce plan to enhance the strategic allocation of resources	<p>The Council has an extensive training programme for council officers including mandatory and voluntary training.</p> <p>The Council actively engages with its staff through:</p> <ul style="list-style-type: none"> • Team meetings • Regular performance management meetings • The Joint Employee Consultative Committee <p>The HR Strategy incorporates the Council's Workforce Development Plan which is due to be reviewed and updated in light of recommendations made following the Peer Review Challenge 2022, annually.</p> <p>The Council's digital strategy seeks to develop solutions which will increase the efficiency of the Council's resources.</p>
5.2. Developing the capability of the entity's leadership and other individuals.	
Developing protocols to ensure that elected and appointed leaders negotiate with each other regarding their respective roles early on in the relationship and that a shared understanding of roles and objectives is maintained	The Council examines the capability of its people with governance responsibilities through appraisals, identifying any training gaps – the relevant training programmes are updated accordingly.

	<u>The Cabinet and Overview and Scrutiny Committee have developed a Cabinet/Scrutiny protocol which sets out their respective roles.</u>
Publishing a statement that specifies the types of decisions that are delegated and those reserved for the collective decision making of the governing body	The Council's constitution sets out clearly the decision-making powers of the Council and its bodies and officers.
Ensuring the leader and the chief executive have clearly defined and distinctive leadership roles within a structure whereby the chief executive leads in implementing strategy and managing the delivery of services and other outputs set by members and each provides a check and a balance for the other's authority	the roles of the Leader of the Council and Chief Executive are clearly defined in the Council's Constitution.
Developing the capabilities of members and senior management to achieve effective leadership and to enable the organization to respond successfully to changing legal and policy demands as well as economic, political and environmental changes and risks.	<p>The Council has a training programme for Members and holds regular training sessions (both on a programmed and ad hoc basis) for Members on a variety of topics:</p> <ul style="list-style-type: none"> • Induction training for all new members • Service-specific training, e.g. Community Safety • Committee-specific training, e.g. Audit Committee, Planning Committee
Ensuring that there are structures in place to encourage public participation	Consultations are published on the Council's websites. In relation to decisions taken by the Council on planning matters, and certain matters under the Licensing Act 2003, members of the public are able to make both written and oral representations to the committee. The Council also operates a petition scheme.
Holding staff to account through regular performance reviews which take account of training or development needs	<p>Staff have access to appropriate induction training, and ongoing training on both an ad hoc and programmed basis relevant to their roles.</p> <p>The annual appraisal process reviews staff performance and also identifies training needs.</p> <p>Staff training takes place both through internal and external provision as appropriate.</p>
Ensuring arrangements are in place to maintain the health and wellbeing of the workforce and support individuals in	The council has a Health and Wellbeing statement of intent recognizing that the Council's staff are its most valuable asset. The HR Strategy also recognizes the same.

maintaining their own physical and mental wellbeing	The Council has a Joint Employee Consultative Committee which enables employees to raise matters of concern, including health and wellbeing.
6. Managing risks and performance through robust internal control and strong public financial management	
6.1. Managing risk	
Recognizing that risk management is an integral part of all activities and must be considered in all aspects of decision making	Risk management practices are embedded within the organisation through the annual service and strategic planning processes, which is used to develop the Council's vision and objectives. This ensures that risks to the achievement of the Council's objectives are identified and managed appropriately. Risks identified are scored on the basis of their likelihood and impact and existing controls and required actions to further mitigate risks are captured in risk registers. The framework sets out the responsibility of Officers leading on areas with partnership arrangements to ensure that the partner has an adequate risk management strategy and sufficient insurance cover to protect the interests of the Council.
Implementing robust and integrated risk management arrangements and ensuring that they are working effectively	<p>The Council has arrangements in place to effectively monitor and manage risks to its business through the:</p> <ul style="list-style-type: none"> • Risk Management Strategy • Strategic Risk Register • Service Risk Registers • Audit Committee role in scrutinising corporate risk • Consideration of risk in all Committee reports • Annual Governance Statement <p>The strategic and service risk registers are updated regularly.</p> <p>Risks associated with decisions are set out on relevant committee, cabinet or council reports.</p> <p>The Council's standard report template requires Officers and Members to carry out a risk assessment of the action recommended in the report ensuring risk is considered in all decision-making of the authority. This assessment also covers legal, financial and value for money considerations and equality issues where relevant.</p>
Ensuring that responsibilities for managing individual risks are clearly allocated.	The service risk registers clearly identify responsibilities for managing individual risks.
6.2. Managing performance.	

<p>Making decisions based on relevant, clear and objective analysis and advice pointing out the implications and risks inherent in the organisation's financial, social and environmental position and outlook</p>	<p>The performance of the Council and its partners in achieving its objectives is monitored and measured by services and their respective Service Management Teams and subsequently Management Team and Members. Individual services are accountable to the Corporate Management Team for operational performance monitoring and measurement and are responsible for taking action to correct any adverse performance, in the first instance, as appropriate.</p>
<p>Ensuring an effective scrutiny or oversight function is in place which provides constructive challenge and debate on policies and objectives before, during and after decisions are made thereby enhancing the organisation's performance and that of any organization for which it is responsible (or for a committee system) encouraging effective and constructive challenge and debate on policies and objectives to support balanced and effective decision making</p>	<p>The overview and scrutiny committee <u>and the three Scrutiny Select Committees ("SSCs") are</u> responsible for reviewing and scrutinizing the decisions made <u>(or due to be made)</u> by <u>cabinet members and by Cabinet collectively.</u></p> <p><u>The Overview and Scrutiny Committee and SSCs are also responsible for reviewing the</u> performance of the Cabinet, <u>Cabinet members, and/or Committees/ Advisory Boards</u> and Council Officers.</p> <p>Decisions made by Cabinet, a Committee or by a Cabinet Member <u>acting on the recommendation of an Advisory Board</u> can be subjected to scrutiny via a call-in procedure allowing challenge within 5 working days of the decision being taken.</p>
<p>Providing members and senior management with regular reports on service delivery plans and on progress towards outcome achievement</p>	<p>The Council has in place committees & boards with cross-party representation to ensure effective and robust discussion of issues. Relevant boards, committees and the executive are provided with information reports on a regular basis to provide progress reports on service delivery and outcomes.</p>
<p>Ensuring there is consistency between specification stages (such as budgets) and post-implementation reporting (e.g. financial statements)</p>	<p>The medium-term financial strategy is aligned with the Corporate Strategy. Service priorities are aligned to the Corporate Strategy, which ensures consistency between budget-setting and service delivery.</p>

	<p>Capital schemes are subject to evaluation prior to the approval for implementation; the criteria of the evaluations are set by Council.</p> <p>Following the scheme's completion a post implementation review will be prepared and shared with members in order to determine the accuracy of the initial evaluation and identify lessons to be learned and considered in future evaluations.</p>
6.3 Robust internal control	
Ensuring effective counter-fraud and anti-corruption measures are in place	The Council has an effective Internal Audit service and Anti-Fraud service in place. The Council also has an Anti-Fraud and Corruption Policy and Whistleblowing Policy.
Ensuring additional assurance on the overall adequacy and effectiveness of the framework of governance, risk management and control is provided by the internal auditor	<p>The Council has in place arrangements to effectively monitor and manage risks to its business through the:</p> <ul style="list-style-type: none"> • Risk management strategy • Strategic risk register • Service risk registers
Establishing an audit committee or equivalent group/function which is independent of the executive and accountable to the governing body	<p>The core functions of an audit committee as defined by <i>CIPFA's Audit Committees: Practical Guidance for Local Authorities</i> are fulfilled by the Council's Audit Committee. The Council's Constitution sets out the responsibility of the Audit Committee to provide independent assurance of the adequacy of the risk management framework and associated control environment. To do so, the Audit Committee has adopted a Risk Management Strategy that sets out the roles of Officers and Members in the identification and minimisation of risk. The Risk Register is a standing item at every Audit Committee meeting</p>
6.4 Managing Data	
Ensuring effective arrangements are in place for the safe collection, storage, use and sharing of data, including processes to safeguard personal data	<p>The Council maintains a number of local policies which support and embed information processes. These include</p> <ul style="list-style-type: none"> • Data Protection policy • Information Security policy • Data Retention policy • Use of removable media policy • Remote access policy • Social media policy • Information Asset register • Information Governance Policy

	<p>The Council has a Data Protection Officer, appointed in accordance with GDPR, with overall responsibility for ensuring the Council follows proper data protection practices. The DPO chairs the Council's Information Governance Group ("IGG") which meets regularly to discuss data protection and related matters within the Council, including data breaches.</p> <p>Individual services have representatives appointed to sit on the IGG and feed back into their services to raise and maintain awareness of the requirements of GDPR.</p>
Ensuring effective arrangements are in place and operating effectively when sharing data with other bodies	<p>The Council is a signatory to the Kent & Medway Information Sharing Agreement, which prescribes the procedures that are to be followed when sharing data with other public sector bodies in Kent. The Data Protection Officer, or his appointed Deputy, attend the Kent & Medway Information Sharing Partnership, which seeks to share best practice under GDPR across all Kent authorities.</p>
Reviewing and auditing regularly the quality and accuracy of data used in decision making and performance monitoring	<p>An annual risk-based Internal Audit Plan is prepared to determine the priorities of the internal audit activity, consistent with the organisation's goals. The Plan aims to ensure that sufficient audit assurance work is carried out to enable the Chief Audit Executive to deliver an opinion regarding the adequacy and effectiveness of the internal control arrangements within the Council. Each audit review will cover data quality and accuracy relevant to the subject area.</p>
6.5 Strong public financial management	
Ensuring financial management supports both long-term achievement of outcomes and short-term financial and operational performance	<p>The Council's Financial Procedure Rules support the provision of high quality financial advice. The Council also acts in consultation with stakeholders. The Council's Internal Audit Service provides assurance on the quality of financial and performance data reported.</p> <p>The ongoing budget-setting and monitoring process together with the Medium Term Financial Strategy supports the long-term achievement of outcomes and short-term financial and operational performance.</p>
Ensuring well-developed financial management is integrated at all levels of planning and control, including management of financial risks and controls	<p>Annual budgets are set with involvement from budget holders across all council services. The MTFS is set considering longer-term risks.</p>
7. Implementing good practices in transparency, reporting, and audit to deliver effective accountability	
7.1 Implementing good practice in transparency	

Writing and communicating reports for the public and other stakeholders in a fair, balanced and understandable style appropriate to the intended audience and ensuring that they are easy to access and interrogate.	<p>The Council has implemented the mandatory and (where cost effective) recommended principles set out in the Local Government Transparency Code. The Council has set up a steering group which meets to discuss changes to the code and its ongoing implementation.</p> <p>Reports for both historic and prospective meetings of the Council and its committees and boards are made available to the public through the Council's website.</p> <p>Where possible, reports are written in a public-facing and non-technical manner. All reports (save those which are exempt from publication for reasons set out in the Local Government Act 1972) are made public and can be accessed through the Council's website.</p>
Striking a balance between providing the right amount of information to satisfy transparency demands and enhance public scrutiny while not being too onerous to provide and for users to understand	Where possible, reports are written in a public-facing and non-technical manner. All reports (save those which are exempt as discussed above) are made public and can be accessed through the Council's website.
7.2 Implementing good practice in reporting	
Reporting at least annually on performance, value for money and stewardship of resources to stakeholders in a timely and understandable way	<p>Annual Statement of Accounts report the Council's financial performance against the original estimate set for that financial year. The statement is prepared in accordance with the CIPFA Code for Local Authority Accounting.</p> <p>Included within the financial statements will be a judgement from the Council's external auditors on value for money and adequate use of resources.</p> <p>Included within the financial statements is the Annual Governance Statement. This is approved by Members and signed by the Chief Executive and Leader of the Council and provides evidence on the Council's adherence to the Code of Corporate Governance.</p>
Ensuring members and senior management own the results reported	The Annual Governance Statement is approved by the leader and Chief Executive, and the financial statements are considered and approved by Management Team and the Audit Committee.
Ensuring robust arrangements for assessing the extent to which the principles contained	Compliance is reviewed on an annual basis and reported to Audit Committee.

in the framework have been applied and publishing the results on this assessment, including an action plan for improvement and evidence to demonstrate good governance (the annual governance statement)	
Ensuring that the framework is applied to jointly managed or shared service organisations as appropriate	Where appropriate, the principles will be applied to jointly managed or shared services.
Ensuring that performance information that accompanies the financial statements is prepared on a consistent and timely basis and the statements allow for comparisons with other, similar, organisations.	Performance information is included as part of the budget-setting process.
7.3 Assurance and effective accountability	
Ensuring that recommendations for corrective action made by external audit are acted upon	Responsibility for acting upon recommendations from external audit rests with the relevant service, and is monitored through individual service management teams and the corporate management team.
Ensuring an effective internal audit service with direct access to members is in place, providing assurance with regard to governance arrangements and that recommendations are acted upon	The Council has an effective internal audit service, and an Audit Committee.
Welcoming peer challenge, reviews and inspections from regulatory bodies and implementing recommendations	The Council takes an active part in Peer Reviews, <u>the most recent being the LGA Peer Review Challenge 2022. The Council is in the process of implementing the recommendations arising from that exercise.</u>
Gaining assurance on risks associated with delivering services through third parties and that this is evidenced in the annual governance statement	Risks are picked up through the contract monitoring process and reported through Audit Committee. <u>Service delivery and performance can be scrutinised through Overview and Scrutiny Committee or the relevant Scrutiny Select Committee or a relevant advisory board</u>
Ensuring that when working in partnership, arrangements for accountability are clear and the need for wider public accountability has been recognized and met	Such arrangements are subject to public reports to each authority in the partnership. The Contracts Procedure Rules also ensure that standard contract terms are imposed ensuring proper accountability.

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TREASURY MANAGEMENT UPDATE AND MID-YEAR REVIEW

Item AU 22/40 referred from Audit Committee of 26 September 2022

The report of the Director of Finance and Transformation provided an update on treasury management activity undertaken during April to August of the current financial year. A mid-year review of the Treasury Management and Annual Investment Strategy for 2022/23 was also included in the report.

Investment income at the end of August 2022 (month five of the financial year) from cash flow surpluses, core cash investments, multi-asset diversified income and property funds was expected to outperform the original budget estimates by upward of £350,000. However, this was to be balanced against any downturn in the economy where investment values might fall significantly. It was noted that economic growth forecasts were expected to fall further given the current global economic factors and the cost of living crisis.

The parameters to limit the Borough Council's exposure to investment risks were summarised in Annex 5. There were no changes to the current approved risk parameters proposed at this time.

RECOMMENDED: That the following be commended to Council



- (1) the action taken in respect of treasury management activity for the period April to August 2022 be endorsed; and
- (2) the existing parameters intended to limit the Council's exposure to investment risks, as set out at Annex 5 to the report, be retained.

***Referred to Council**

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TREASURY MANAGEMENT UPDATE AND ANNUAL REPORT 2021-22

Item AU 22/28 referred from Audit Committee of 25 July 2022

The report of the Director of Finance and Transformation provided an update on treasury management activity undertaken during April to June of the current financial year. The treasury management outturn position for 2021/22 was also set out.

The report provided an assessment of the current economic situation and interest rate forecasts together with a commentary on investments derived from cash flow surpluses, core cash balances and other long term cash balances. A full list of investments held on 30 June 2022 was set out in Annex 1 to the report.

Member's attention was drawn to the Revenue and Capital Outturn report for 2021/22 as set out at Annex 4 which provided a summary of the investment performance. The combined performance of the Authority's investments exceeded the revised estimate by £58,949 due to the interest rate changes applied in December 2021 through to March 2022.

RECOMMENDED: That the following be commended to Council:

- (1) the action taken in respect of treasury management activity for April to June 2022 be endorsed;
- (2) the 2021/22 outturn position be noted.

***Referred to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

AUDIT COMMITTEE

26 September 2022

Report of the Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet – Council Decision

1 TREASURY MANAGEMENT UPDATE AND MID-YEAR REVIEW

The report provides an update on treasury management activity undertaken during April to August of the current financial year. A mid-year review of the Treasury Management and Annual Investment Strategy for 2022/23 is also included in this report.

1.1 Introduction

1.1.1 The Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management was revised December 2017 and adopted by Council on 30 October 2018 and in December 2021 CIPFA published updates to the Treasury Management Code. The requirements of the Code have been taken into account in the mid-year review.

1.1.2 The primary requirements of the Code are as follows:

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

1.1.3 This mid-year report has been prepared in compliance with the Code and covers the following:

- An economic update and interest rate forecast.
- Investment performance for April to August of the 2022/23 financial year including recent benchmarking data.
- Compliance with Treasury and Prudential Limits for 2022/23.
- A review of the risk parameters contained in the 2022/23 Treasury Management and Annual Investment Strategy.

1.2 Economic Background

1.2.1 As expected, the Bank of England's Monetary Policy Committee (MPC) voted by an 8-1 majority to increase Bank Rate by 0.50 percentage points to 1.75% at its August meeting, pushing borrowing costs to their highest in 13 years as the MPC tries to temper soaring inflation. The central bank now expects inflation to reach over 13% in Q4 2022 and to remain at very elevated levels throughout much of 2023. The Bank's forecasts were adjusted to reflect:

- The Bank acknowledged that GDP growth is slowing citing the latest rise in gas prices has led to another significant deterioration in the outlook for activity in the UK and the rest of Europe. The UK is now projected to enter recession from the fourth quarter of this year.
- The BoE revised its growth forecast downwards for the foreseeable future. GDP growth is expected to fall for Q3 2022 to 2.3% from 2.9% previously forecast. Subsequent forecasts were also revised down to -2.1% y/y for Q3 2023 from -0.8% y/y.
- The annual inflation rate in the UK increased to 10.1% y/y in July from 9.4% in June, slightly above market forecasts of 9.8%. The result represented the highest reading since February 1982, as prices rose faster for housing & utilities (20.0% y/y), food & non-alcoholic beverages (12.6%) and restaurant & hotels (8.9%). Transportation prices also rose 14.8%, although this was less than June's 14.9% y/y rise. Compared to the previous month, consumer prices rose 0.6%, below 0.8% in June, but above forecasts of 0.4%.
- The unemployment rate was at 3.8% in Q2, unchanged from the previous three month period (January to March) but is 0.2% below pre-coronavirus pandemic levels.

1.2.2 Central forecast for interest rates was previously updated on 21 June and reflected a view that the MPC will be keen to further demonstrate its anti-inflation credentials by delivering a succession of rate increases, including in August. It is expected that a further 0.5% increase in September; another 0.25% increase in November and a further 0.25% hike in February. The timing and size of the interest rate rises will be data dependent and, potentially, influenced by the actions of the US FOMC (Federal Open Market Committee) and also the policies of the new Prime Minister, Liz Truss.

- 1.2.3 Due to recent events there has been some delays in receiving data including any fiscal policy change which may have implication on the Economic outlook. Any relevant updates will be provided in due course.

1.3 Interest Rate Forecast

- 1.3.1 Link's forecast used in the 2022/23 Investment Strategy which was approved as part of the budget setting process assumed economic conditions would continue to improve and resulting in a gradual rise in Bank Rate over the next three years.

Link - Dec 2021	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24
	%	%	%	%	%	%	%	%	%	%	%
Bank Rate	0.25	0.25	0.50	0.50	0.50	0.75	0.75	0.75	0.75	1.00	1.00
3 mth ave earnings	0.20	0.30	0.50	0.50	0.60	0.70	0.80	0.90	0.90	1.00	1.00
6 mth ave earnings	0.40	0.50	0.60	0.60	0.70	0.80	0.90	1.00	1.00	1.10	1.10
12 mth ave earnings	0.70	0.70	0.70	0.70	0.80	0.90	1.00	1.10	1.10	1.20	1.20
25yr PWLB	1.80	1.90	2.00	2.10	2.10	2.20	2.20	2.20	2.30	2.30	2.40

Table 1 (a)

- 1.3.2 Since the approval of the 2022/23 Investment Strategy the conflict in Ukraine and the subsequent impact on the global economic conditions, e.g. soaring inflation has resulted in the MPC announcing a series of 0.25% and 0.50% bank rate increases and is expected to continue over the short term.
- 1.3.3 Due to more recent events and the ever changing market sentiment, the interest rate forecast provided by The Link Group has been postponed until the rescheduled MPC meeting has taken place on Thursday 22 September. This will enable Link to incorporate the latest decisions taken by the MPC into an updated interest rate forecast for distribution.

1.4 Investment Performance

- 1.4.1 In accordance with the CIPFA Code the Council's priorities, in order of importance, are to ensure security of capital; liquidity; and having satisfied both, to obtain an appropriate level of return which is consistent with the Council's risk appetite.
- 1.4.2 The Council's investments are derived from cash flow surpluses, core cash balances and other long and medium term cash balances.
- 1.4.3 Cash flow surpluses are available on a temporary basis and the amount mainly dependent on the timing of council tax and business rates collected and their payment to precept authorities and government. Less significant cash flows relate to receipt of grants, payments to housing benefit recipients, suppliers and staff. Cash flow surpluses build up during the course of a financial year and are spent

by financial year end. Thus far in 2022/23 cash flow surpluses have averaged £25.77m.

- 1.4.4 The Authority also has £28m of core cash balances. These funds are for the most part available to invest for more than one year, albeit a proportion is usually transferred to cash flow towards the end of the financial year to top-up daily cash balances. Core cash includes the Council's capital and revenue reserves which are being consumed over time to meet capital expenditure and 'buy time' to enable the authority to deliver its revenue savings targets.
- 1.4.5 Cash flow and core cash balances also include some £10m to meet business rate appeals of which £3m are expected to be resolved in 2022/23 and the remainder in future years.
- 1.4.6 Long term investment at the end of August 2022 comprised £5m in property fund investments.
- 1.4.7 Medium term investments at the end of August 2022 comprised £4.25m in multi asset fund investments.
- 1.4.8 A full list of investments held on 31 August 2022 is provided at **[Annex 1]** and a copy of our lending list of 31 August 2022 at **[Annex 2]**. The table below provides a summary of funds invested and interest / dividends earned at the end of August.

	Funds invested on 31 August 2022	Average duration to maturity	Weighted average rate of return	Interest / dividends earned	Gross annualised return	SONIA benchmark (average)
	£m	Days	%	1 April to 31 August 2022		1 April to 31 August 2022
				£	%	%
Cash flow	25.77	8	1.70	122,500	0.95	n/a
Core cash	28.00	109	1.78	114,400	1.42	n/a
Sub-total	53.77	61	1.74	236,900	1.13	n/a
Long term	5.00			43,700	3.49	
Medium term	4.25			91,300	5.16	
Total	63.02			371,900	1.96	

Table 2

Property funds pay dividends quarterly. The return quoted above is based on dividends received for the quarter April to June 2022.

- 1.4.9 **Cash flow and Core cash Investments.** Interest earned of £236,900 to the end of August is higher than the original estimate for the same period. The increase in investment income reflects the quick succession of interest rate rises from December 2021 and provided an opportunity to reinvest surplus cash at a more

favourable rate. Due to current events SONIA data has not been made available for comparison. However the benchmarking data below provides an insight to the investment performance against Local Authorities of a similar size.

- 1.4.10 Bank offers are expected to continue to rise throughout 2022/23. As a result of the recent increases in the bank rate, cash flow and core cash investment income is projected to outperform the original budget upward of £350,000. The improved level of expected investment income will be reflected in the revised estimates.
- 1.4.11 The Council takes advantage of Link's benchmarking service which enables performance to be gauged against Link's other local authority clients. An extract from the latest benchmarking data is provided in the form of a scatter graph at **[Annex 3]**. The graph shows the return (vertical scale) vs. the credit / duration risk (horizontal scale) associated with an authority's investments. As at 30 June 2022 the Council's return at 1.07% (purple diamond) was above the local authority benchmark group average of 0.97%, Link's predicted return is between the upper and lower boundary indicated by the diagonal lines. The Council's risk exposure was consistent with the local authority average.
- 1.4.12 **Long term Investment.** The availability of cash balances over the longer term (10 years) and the suitability of different types of long term investment (equities, bonds and commercial property) was explored in the report to Audit Committee, January 2017. Of the alternatives, investment in property funds was considered best suited to meet the Council's more immediate funding need: a sustainable, stable income stream.
- 1.4.13 £3m was invested in property investment funds during 2017/18 and a further £2m invested during 2018/19. Investment was spread across three funds to ensure, as far as is possible, stability of annual income and capital growth over time. Additional property fund investments could be made in the future as resources become available from asset disposals and other windfalls.
- 1.4.14 During the period 1 April 2022 to 30 June 2022 the £5m investment in property funds generated dividends of £43,700 which represents an annualised return of 3.49% (3.23% in 2021/22). The property funds have proved to be very resilient over the past 12 months which is reflected in the dividend being distributed. It is expected that performance of the funds will be in line with the original budget set for 2022/23.
- 1.4.15 Property funds issue and redeem primary units at a buy and sell price with the difference between the two prices reflecting the costs associated with buying and selling property (legal and other fees, stamp duty etc.). The price spread varies from fund to fund but is typically in the region of 8% (6% on entry to a fund and 2% on exit). Where units are traded on a secondary market the impact of the spread can be reduced and delays in the purchase / redemption of units avoided.

1.4.16 Current sale values vs initial purchase price are as follows:

Property fund (Primary = units in the fund purchased from the fund manager. Secondary = units purchased from another investor at a discount. Date = first month the investment attracted dividends)	Purchase price	Sale value at date of purchase	Sale value 30 June 2022	30 June 22 sale value above (below) purchase price (c-a) £
a	b	C		
£	£	£		
LAPF (Primary, July 2017)	1,000,000	922,200	1,152,700	152,700
Lothbury (Primary, July 2017)	1,000,000	927,700	1,090,400	90,400
Hermes (Secondary, Oct 2017)	1,000,000	939,000	1,181,800	181,800
LAPF (Primary, June 2018)	1,000,000	922,200	1,105,200	105,200
Lothbury (Secondary, July 2018)	1,000,000	973,000	1,069,400	69,400
Total change in principal	5,000,000	4,684,100	5,599,500	599,500
Total dividends received to June 2022				783,700
Net benefit since inception				1,383,200

Table 3

1.4.17 Since inception, the Council has received dividends from its property fund investments totalling £783,700. The property markets have proved to be very resilient over the past 12 months providing capital growth on the portfolio of circa 12%. There are no current indicators that the market will contract in the short term.

1.4.18 Members are reminded that higher yielding investments (e.g. property, equities) have the potential to fluctuate in value, both up and down. It is this feature which makes them unsuitable for short term investment where certainty over value at maturity is a key criteria. The Council's property fund investments are not required to meet day to day spending commitments and will only be realised should a higher yielding opportunity be identified.

1.4.19 **Medium term Investment.** In recent years multi asset (diversified income) funds have grown in popularity. The rationale for adopting such a fund was explored in the Audit Committee report of January 2018 and their use for medium-term investment reaffirmed in the January 2021 Audit Committee report which introduced multi-asset (diversified income) funds into the Annual Investment Strategy.

1.4.20 Like property funds, multi asset (diversified income) funds aim to generate returns over and above inflation and thus preserve spending power.

- 1.4.21 A total of £3m was initially invested equally across three funds in July and August, with a further £1.25m invested in November 2021 across two of the funds with the proceeds from the sale of River Walk. Additional multi asset fund investments could be made in the future where resources become available from asset disposals and other windfalls.
- 1.4.22 During the period 1 April 2022 to 31 August 2022 the £4.25m investment in multi asset (diversified income) funds generated income from dividends of £91,300 which represents an annualised return of 5.16%. Income has performed some £25,800 above budget to the end of August.

1.5 Compliance with the Treasury Management and Annual Investment Strategy

- 1.5.1 Throughout the period April to August 2022 all of the requirements contained in the 2022/23 Annual Investment Strategy intended to limit the Council's exposure to investment risks (minimum sovereign and counterparty credit ratings; duration limits; exposure limits in respect of counterparties, groups of related counterparty and sovereigns; and specified and non-specified investment limits) have been complied with. No borrowing was undertaken during April to August 2022.
- 1.5.2 The Council has also operated within the treasury limits and prudential indicators set out in the Annual Investment Strategy and in compliance with the Council's Treasury Management Practices. The Prudential and Treasury Indicators can be found in **[Annex 4]** to this report.

1.6 Review of Risk Parameters

- 1.6.1 Members will recall the detailed consideration that was given to the 2022/23 Treasury Management and Annual Investment Strategy at Audit Committee in January. For ease of reference the parameters included in the Strategy that aim to limit the Council's exposure to investment risks are summarised in **[Annex 5]**.
- 1.6.2 In undertaking this review **no changes to the current approved risk parameters are proposed at this time**. The Strategy ensures that the Council is investing in high credit quality counterparties and there are an adequate number of counterparties available to maintain a well-diversified portfolio. However, we will continue to look to expand the Council's lending list to include any UK banks and building societies that don't currently feature on our lending list but nevertheless meet our minimum credit criteria. This will ensure that we can take advantage of all available opportunities as they arise.
- 1.6.3 There is a need to continue to explore alternative investment options to ensure the maximum return on investment for the Council. Subject to an understanding and acceptance of any associated risks with such investments, they may be offered for inclusion in next year's Annual Investment Strategy. Any investment will of course be dependent on the level of reserves and other balances available for such an investment.

1.7 Legal Implications

- 1.7.1 Under Section 151 of the Local Government Act 1972, the Section 151 Officer has statutory duties in relation to the financial administration and stewardship of the authority including securing effective arrangements for treasury management. In addition, Link are employed to provide independent advice on legislative and professional changes that impact on the treasury management function.

1.8 Financial and Value for Money Considerations

- 1.8.1 Due to the pressures of inflation driven by a number of issues including supply and labour market shortages, the BoE pursued a proactive approach in tackling rising inflation by raising Bank Rate six times since December 2021 bringing the current rate to 1.75%.
- 1.8.2 Due to recent events Link will produce an updated Bank Rate forecast after the next MPC meeting scheduled to take place on Thursday 22 September. Further details on the anticipated Bank Rate increases will be provided in due course.
- 1.8.3 Investment income at the end of August 2022 (month five of the financial year) from cash flow surpluses and core cash investments is a favourable variance of £208,600 to the budget for the same period. Income from property funds at the end of June is in line with the budget and diversified income funds are exceeding the budget by some £25,800 for the same period. Investment income for the financial year as a whole from these sources is expected to outperform the original budget by upward of £350,000.
- 1.8.4 Performance is monitored against a benchmark return and against other local authorities in Kent and the broader local authority pool via Link's benchmarking service.
- 1.8.5 Whilst the annual income stream from a property fund exhibits stability (circa 3-4% per annum net of management fees) capital values rise and fall with the cyclical nature of economic activity. During a downturn in the economy capital values may fall significantly. The duration of a property fund investment may need to be extended to avoid crystalizing a loss and as a consequence, the investment's duration cannot be determined with certainty.
- 1.8.6 Buying and selling property involves significant costs making property unsuitable for short term investment. Buying and selling costs are reflected in the entry fees (circa 6%) and exit fees (circa 2%) a property fund will charge unit holders. These fees are expected to be recouped overtime through capital appreciation.
- 1.8.7 The money being applied to property fund investment and multi asset investments from existing resources is expected to be available in perpetuity. Nevertheless, the Council's cash balances will continue to be monitored and due regard given to the potential for a fund to delay payment of redemption requests by up to twelve months. Funds will seek to minimise their own cash balances in favour of holding

property or assets and therefore manage redemption requests for the benefit of all fund participants. The Council is only likely to seek redemption to pursue a higher yielding income opportunity should one be identified.

- 1.8.8 Multi asset (diversified income) funds aim to limit risk by spreading investment across a broad range of asset classes (equities, bonds, property, cash). Nevertheless, the principal sum invested may fall as a consequence of adverse economic or market events. Multi asset funds are being used for medium-term investment implying a five-year timeframe.

1.9 Risk Assessment

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

1.10 Equality Impact Assessment

- 1.10.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act.

1.11 Recommendations

- 1.11.1 Members are invited to **RECOMMEND** that Cabinet:

- 1) Endorse the action taken by officers in respect of treasury management activity for April to August 2022.
- 2) Retain the existing parameters intended to limit the Council's exposure to investment risks.

Background papers:

contact: Donna Riley

Link benchmarking data (June 2022)

Sharon Shelton
Director of Finance and Transformation

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Tonbridge and Malling Borough Council - Investment summary 31 August 2022

Counterparty / type of investment	Sovereign	Fitch long term	Fitch short term	Link suggested post CDS duration limit	Investment						Cash Flow surpluses £	Core Cash balances £	Medium term investment balances £	Long term investment balances £
					Start date	End date	Duration at start	Amount invested £	Return %	Proportion of total %				
Banks, Building Societies & Other Financials														
Barclays Bank : 95 day notice account	UK	A+	F1	6 months	23/07/2019	TBD	95 Days	3,000,000 3,000,000	0.15	4.76%		3,000,000		
Goldman Sachs : Fixed term deposit	UK	A+	F1	6 months	13/06/2022	13/09/2022	3 Months	1,000,000 1,000,000	1.39	1.59%		1,000,000		
HSBC Bank : 31 day notice account	UK	AA-	F1+	1 year	02/12/2019	TBD	31 Days	6,000,000 6,000,000	1.75	9.52%	6,000,000			
Lloyds Bank : Certificate of Deposit Certificate of Deposit	UK	A+	F1	6 months	07/07/2022 16/08/2022	06/01/2023 16/12/2022	6 Months 4 Months	3,000,000 3,000,000	1.99 2.18	9.52%		3,000,000 3,000,000		
National Westminster Bank : Deposit account Certificate of Deposit Certificate of Deposit	UK	A+	F1	1 year	31/08/2022 15/12/2021 30/03/2021	01/09/2022 15/12/2022 30/09/2022	Overnight 1 Year 6 Months	50,000 2,000,000 2,000,000	0.01 0.56 1.30	6.43%	50,000	2,000,000 2,000,000		
Nordea Bank : Fixed term deposit Certificate of Deposit	Finland	AA-	F1+	1 year	29/07/2022 11/04/2022	30/01/2023 11/10/2022	6 Months 6 Months	2,000,000 2,000,000	2.45 1.35	6.35%		2,000,000 2,000,000		
Santander UK Bank : Fixed term deposit Certificate of Deposit	UK	A+	F1	6 months	19/08/2022 06/06/2022	18/11/2022 06/09/2022	3 Months 3 Months	2,000,000 2,000,000	2.22 1.35	6.35%		2,000,000 2,000,000		
Toronto Dominion Bank : Fixed term deposit Certificate of Deposit Certificate of Deposit	Canada	AA-	F1+	1 year	23/03/2022 11/07/2022 11/07/2022	23/03/2023 12/12/2022 07/07/2023	1 year 5 Months 1 year	2,000,000 2,000,000 2,000,000	1.86 2.08 2.84	9.52%		2,000,000 2,000,000 2,000,000		
Money Market Funds														
Blackrock MMF - shares/units held	N/A	AAA	mmf (Eq)	5 years	31/08/2022	01/09/2022	Overnight	8,000,000	1.68	12.69%	8,000,000			
BNP Paribas MMF - shares/units held	N/A	AAA	mmf (Eq)	5 years	31/08/2022	01/09/2022	Overnight	0	1.50		-			
CCLA PSDF MMF - shares/units held	N/A	AAA	mmf	5 years	31/08/2022	01/09/2022	Overnight	1,947,000	1.62	3.09%	1,947,000			
DWS Deutsche MMF - shares/units held	N/A	AAA	mmf	5 years	31/08/2022	01/09/2022	Overnight	1,778,000	1.67	2.82%	1,778,000			
Federated MMF - shares/units held	N/A	AAA	mmf	5 years	31/08/2022	01/09/2022	Overnight	8,000,000	1.73	12.69%	8,000,000			
Morgan Stanley MMF - shares/units held	N/A	AAA	mmf	5 years	31/08/2022	01/09/2022	Overnight	0	1.60		-			
Property Funds														
Hermes Property Unit Trust : Property fund units	N/A	N/A	N/A	N/A	29/09/2017	N/A	N/A	1,000,000 1,000,000	3.54	1.59%				1,000,000
Local Authorities' Property Fund : Property fund units Property fund units	N/A	N/A	N/A	N/A	29/06/2017 30/05/2018	N/A N/A	N/A N/A	1,000,000 1,000,000	4.07 4.16	3.17%				1,000,000 1,000,000
Lothbury Property Trust : Property fund units Property fund units	N/A	N/A	N/A	N/A	06/07/2017 02/07/2018	N/A N/A	N/A N/A	1,000,000 1,000,000	2.90 2.80	3.17%				1,000,000 1,000,000
Multi Asset Funds														
Aegon Multi Asset fund units	N/A	N/A	N/A	N/A	29/07/2021	N/A	N/A	1,750,000 1,750,000		2.78%			1,750,000	
Fidelity Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,000,000 1,000,000		1.59%			1,000,000	
Ninety One Multi Asset fund units	N/A	N/A	N/A	N/A	12/08/2021	N/A	N/A	1,500,000 1,500,000		2.38%			1,500,000	
Total invested								63,025,000		100.00%	25,775,000	28,000,000	4,250,000	5,000,000

Number of investments	29	Average investment value £				2,173,000
Number of counter parties	20	Average counter party investment £				3,151,000
Group exposures:		Core £	Cash £	Combined £	%	
Royal Bank of Scotland + National Westminster (UK Nationalised MAX 20%)		2,000,000	50,000	2,050,000	3.25	
Bank of Scotland + Lloyds (MAX 20%)		3,000,000	-	3,000,000	4.76	
Property Funds Total				5,000,000	7.93	
Multi Asset Funds Total				4,250,000	6.74	

Total non-specified investments should be less than 60% of Investment balances	14.68%
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Notes:
Property fund returns are based on dividends distributed from the start of each investment. Capital appreciation / depreciation is recorded elsewhere. Last update June 2022.

End date for notice accounts to be determined (TBD)

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Tonbridge and Malling Borough Council Lending List

Checked against Link's "Suggested Credit List" dated 26/08/22 Minimum investment criteria is Link's green duration band (100 days). Entry point broadly equates to Fitch A-, F1 unless UK nationalised.								
Counterparty	Sovereign	Sovereign rating [1]	Fitch long term	Fitch short term	UK classification	Exposure limit	Link duration based on [2] Credit ratings	Post CDS
UK Banks, Building Societies and other Financial Institutions :								
Bank of Scotland (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Barclays Bank (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Non-RF	£7m	6 months	6 months
Barclays Bank UK (Group Limit Barclays and Barclays UK £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Close Brothers Ltd	UK	AA-	A-	F2	Exempt	£7m	6 months	6 months
Goldman Sachs International Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Handelsbanken Plc (Group Limit with Svenska Handelsbanken AB £7m)	UK	AA-	AA	F1+	Exempt	£7m	1 year	1 year
HSBC UK Bank	UK	AA-	AA-	F1+	Ring-fenced	£7m	1 year	1 year
Lloyds Bank (Group limit BOS & Lloyds £7m)	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Santander UK	UK	AA-	A+	F1	Ring-fenced	£7m	6 months	6 months
Standard Chartered Bank	UK	AA-	A+	F1	Exempt	£7m	6 months	6 months
Coventry Building Society	UK	AA-	A-	F1	Exempt	£7m	6 months	6 months
Leeds Building Society	UK	AA-	A-	F1	Exempt	£7m	100 days	100 days
Nationwide Building Society	UK	AA-	A	F1	Exempt	£7m	6 months	6 months
Skipton Building Society	UK	AA-	A-	F1	Exempt	£7m	6 months	6 months
Yorkshire Building Society	UK	AA-	A-	F1	Exempt	£7m	100 days	100 days
National Westminster Bank (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
The Royal Bank of Scotland (Group limit Nat West and RBS £7m). UK Nationalised.	UK	AA-	A+	F1	Ring-fenced	£7m	1 year	1 year
UK Debt Management Office including Treasury Bills	UK	AA-	n/a	n/a	n/a	No limit	5 years	5 years
UK Treasury Sovereign Bonds (Gilts)	UK	AA-	n/a	n/a	n/a	£16m/£8m	5 years	5 years
UK Local Authority (per authority)	UK	AA-	n/a	n/a	n/a	£7m	5 years	5 years
Non-UK Banks :								
Bank of Montreal	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Toronto Dominion Bank	Canada	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Nordea Bank Abp	Finland	AA+	AA-	F1+	n/a	£7m	1 year	1 year
Rabobank (Coöperatieve Rabobank U.A.)	Netherlands	AAA	A+	F1	n/a	£7m	1 year	1 year
ING Bank	Netherlands	AAA	AA-	F1+	n/a	£7m	1 year	1 year
Svenska Handelsbanken AB (Group Limit with Handelsbanken Plc £7m)	Sweden	AAA	AA	F1+	n/a	£7m	1 year	1 year
<div>[1] Reflects the lowest of the three rating agencies views (Fitch, Moody's and Standard and Poor's). Strategy requires non-UK sovereigns to be rated at least AA- and the UK rated at least A-. Non-UK sovereign limit of 20% or £7m per sovereign.</div> <div>[2] All deposits overnight unless otherwise approved in advance by the Director of Finance and Transformation AND Chief Financial Services Officer. If other than overnight duration for non-UK entities must not exceed Link's post CDS duration suggestion. For UK entities duration may be extended by up to three months based on credit ratings alone or six months if CDS is below average, subject to a maximum combined duration of 12 months.</div>								

Money Market Funds (Minimum investment criteria AAA) :					
Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Blackrock Institutional Cash Series - Sterling Liquidity	AAA	-	AAA	£8m	5 years
BNP Paribas InstiCash - GBP	-	-	AAA	£8m	5 years
CCLA Public Sector Deposit Fund	-	AAA	-	£8m	5 years
DWS Deutsche Global Liquidity - Deutsche Managed Sterling	AAA	AAA	AAA	£8m	5 years
Federated Cash Management - Short Term Sterling Prime	-	AAA	AAA	£8m	5 years
Insight - Sterling Liquidity (Group limit IL & ILP of £7m)	-	AAA	AAA	£8m	5 years
Morgan Stanley Liquidity - Sterling	AAA	AAA	AAA	£8m	5 years

Enhanced Cash Funds (Minimum investment criteria AAA) :					
Fund Name	Moody	Fitch	S&P	Exposure Limit	Link credit worthiness
Insight - Sterling Liquidity Plus (Group limit IL & ILP £7m)	-	AAA	AA+	£3.5m	5 years

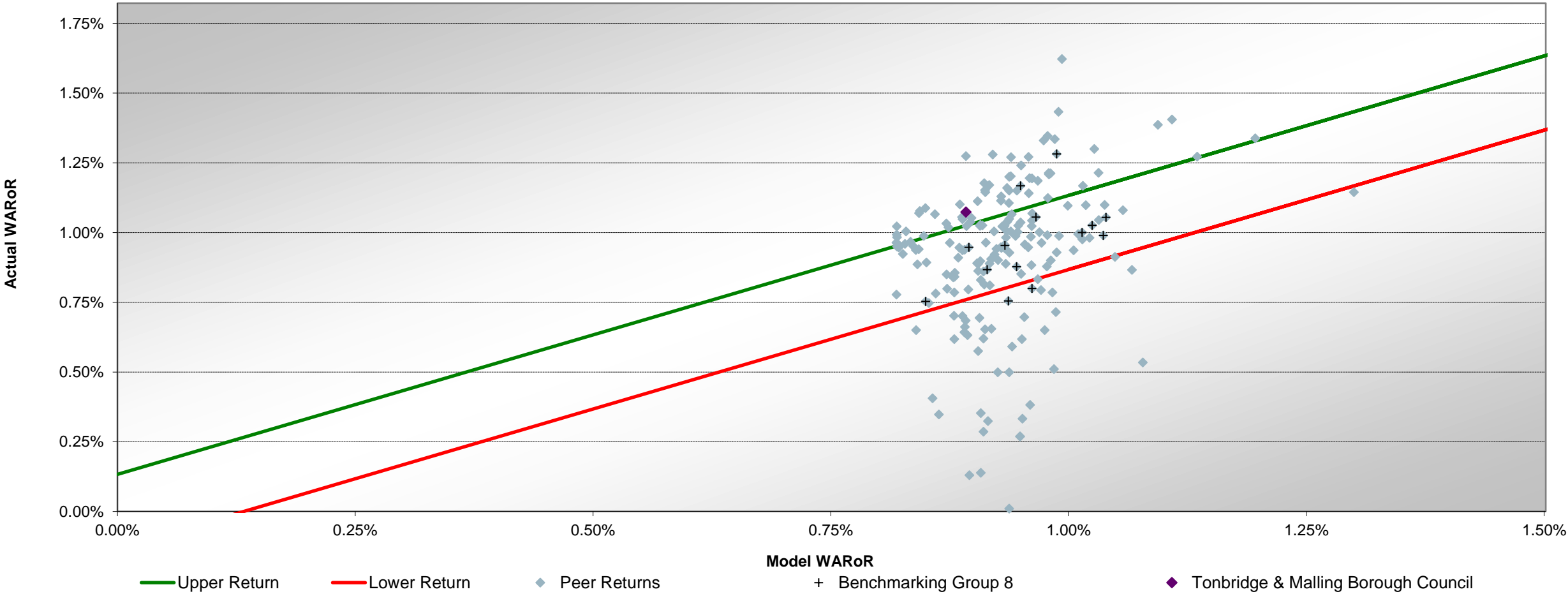
Approved by Director of Finance and Transformation

29 August 2022

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Tonbridge & Malling Borough Council

Population Returns against Model Returns June 2022



	Actual WARoR	Model WARoR	Difference	Lower Bound	Upper Bound	Performance
Tonbridge & Malling Borough Council	1.07%	0.89%	0.18%	0.76%	1.02%	Above

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Prudential and Treasury Indicators

Prudential Indicators	2021/22 Actual £'000	2022/23 Estimate £'000	2023/24 Estimate £'000
Capital expenditure	2,251	4,201	2,144
Ratio of financing costs to net revenue stream	-6.91%	-2.29%	-2.46%
Net borrowing requirement:			
Brought forward 1 April	nil	nil	nil
Carried forward 31 March	nil	nil	nil
In year borrowing requirement	nil	nil	nil
Capital financing requirement as at 31 March	nil	nil	nil
Annual change in capital financing requirement	nil	nil	nil
Incremental impact of capital investment decisions: Increase in Council Tax (Band D) per annum	nil	nil	nil

TREASURY MANAGEMENT INDICATORS	2021/22	2022/23	2023/24
	Actual	Estimate	Estimate
	£'000	£'000	£'000
Authorised Limit for external debt :			
borrowing	nil	7,000	7,000
other long term liabilities	nil	nil	nil
TOTAL	nil	7,000	7,000
Operational Boundary for external debt:-			
borrowing	nil	4,000	4,000
other long term liabilities	nil	nil	nil
TOTAL	nil	4,000	4,000
Actual external debt	nil	nil	nil
Upper limit for fixed interest rate exposure > 1 year at year end	nil	It is anticipated that exposure will range between 0% to 60%	
Upper limit for variable rate exposure < 1 year at year end	22,131 (40.0%)	It is anticipated that exposure will range between 40% to 100%	
Upper limit for total principal sums invested for over 365 days at year end	9,250 (16.7%)	60% of funds	

Maturity structure of fixed rate borrowing during 2021/22 – 2024/25	upper limit	lower limit
under 12 months	100 %	0 %
Over 12 months	0 %	0 %

2022/23 Annual Investment Strategy Risk Parameters

The strategy includes parameters that aim to limit the Council's exposure to investment risks by requiring investments to be placed with high credit rated financial institutions and that those investments are diversified across a range of counterparties. More specifically the 2022/23 Strategy requires:

- Counterparties must be regulated by a Sovereign rated AA- (UK minimum of A-) or better as recognised by each of the three main rating agencies (Fitch, Moody's, and Standard & Poor's).
- Whilst 100% of funds can be invested in the UK, exposure to non-UK banks is restricted to no more than 20% of funds per Sovereign.
- Exposure to individual counterparties and groups of related counterparty must not exceed 20% of funds or 10% of funds if a housing association.
- In selecting suitable counterparties for overnight deposits and deposits up to 2 years in duration (3 years with a local authority), the Council has adopted Link's credit worthiness methodology. The methodology combines the output from all three credit rating agencies including credit watches / outlooks and credit default swap data to assign a durational band to a financial institution (100 days, 6 months, 1 year, 5 years, etc.). At the time of placing an investment the financial institution must be assigned a durational band of at least 100 days (based on credit ratings alone). Other than for UK nationalised institutions this broadly equates to a minimum long term credit rating of Fitch A- (high) and a short term credit rating of Fitch F1 (highest).
- Investment in UK nationalised banks is subject to the bank having a minimum long term credit rating of Fitch BBB (good) and a short term credit rating of Fitch F2 (good). The Royal Bank of Scotland and National Westminster Bank are currently rated Fitch A+, F1.
- The duration of an investment in a foreign bank must not exceed Link's post CDS recommendation. For UK financial institutions Link's duration recommendation can be enhanced by up to 6 months subject to the combined duration (Link recommendation plus the enhancement) not exceeding 12 months. The Council's Treasury Management Practices have been modified to ensure that where duration is being enhanced by more than 3 months the bank's CDS must be below the average for all other banks at the time the investment is placed.
- Money Market funds should be rated AAA and exposure limited to no more than 20% per fund. LVNAV (low volatility) or VNAV (variable net asset value) funds may be used as an alternative to CNAV (constant net asset value) funds.
- Enhanced Cash Funds and Government Liquidity Funds will be AAA rated and ultra-short duration bond funds rated AA or higher. Exposure is limited to no more than 10% of investment balances per fund and 20% to all such funds.

- Exposure to non-credit rated property funds is limited to no more than 20% (£3m) of expected long term cash balances. No limit applies where invested funds are derived from or in anticipation of new resources e.g. proceeds from selling existing property.
- Exposure to non-credit rated diversified income (multi-asset) funds and or short dated bond funds is limited to no more than 20% (£3m) of expected long term cash balances per fund and across all such funds.

All specified and non-specified Investments will be:

Subject to the sovereign, counterparty and group exposure limits identified above.

Subject to the duration limit suggested by Link (+6 months for UK financial institutions) at the time each investment is placed.

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

Sterling denominated.

Specified Investments (maturities up to 1 year):

Investment	Minimum Credit Criteria
UK Debt Management Agency Deposit Facility	UK Sovereign A-
Term deposits - UK local authorities	UK Sovereign A-
Term deposits - UK nationalised banks	UK Sovereign A- Counterparty BBB, F2 or Green excluding CDS
Term deposits – all other banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 or Green excluding CDS
Certificates of deposit - UK nationalised banks	UK Sovereign A- Counterparty BBB, F2 or Green excluding CDS
Certificates of deposit – all other banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1, or Green excluding CDS
UK Treasury Bills	UK Sovereign A-
UK Government Gilts	UK Sovereign A-
Bonds issued by multi-lateral development banks	AAA
Sovereign bond issues (other than the UK govt)	AAA
Money Market Funds (CNAV, LVNAV or VNAV)	AAA
Enhanced Cash and Government Liquidity Funds	AAA

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

Investment	Minimum Credit Criteria	Max duration to maturity
Fixed term deposits with variable rate and variable maturities (structured deposits) - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Fixed term deposits with variable rate and variable maturities (structured deposits) - banks and building societies	UK sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Term deposits - local authorities	UK Sovereign A-	3 years
Term deposits – housing association	UK Sovereign A-	2 years
Term deposits - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Term deposits - banks, building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Certificates of deposit - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Certificates of deposit - banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Commercial paper - UK nationalised banks	UK Sovereign A- Counterparty BBB,F2 (Green)	2 years
Commercial paper - banks and building societies	UK Sovereign A- / Non-UK Sovereign AA- Counterparty A-, F1 (Green)	2 years
Floating rate notes issued by multilateral development banks	AAA	2 years
Bonds issued by multilateral development banks	AAA	2 years
Sovereign bonds (other than the UK Government)	AAA	2 years
UK Government Gilts	UK Sovereign A-	5 years
Property Funds	N/A	N/A
Diversified Income Funds	N/A	N/A

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FINAL PROPOSALS FOR REVIEW OF POLLING DISTRICTS AND POLLING PLACES

Item GP 22/33 referred from General Purposes Committee of 3 October 2022

Following receipt of the final recommendations for the warding arrangements, from the Local Government Boundary Commission for England, a Polling District and Polling Place review has been undertaken to implement the changes to warding arrangements and ensure the Polling Districts lie within the Parish, Ward and Constituency boundaries.

There was an update on the recent consultation which had ended on 21 August 2022. The responses received had been considered and reflected in the final proposals.

The main changes were:

- Polling District boundary between Walderslade and Aylesford North & North Downs moved to match the new ward boundary.
- Polling District boundary between Aylesford North & North Downs and Aylesford South & Ditton moved slightly to match the new ward boundary.
- Creation of a new Polling District within Snodland West and Holborough lakes ward, called Holborough Lakes with the new Polling Place/station situated at the Holborough Lakes Village Hall.
- Creation of a new polling district within Tonbridge between Hildenborough and Judd. This Polling District created as the Ward and Parish boundaries were not co-terminus. The Oast Theatre to be used (with Stocks Green CP as a back-up in the event of not being able to use the theatre if an unscheduled election was called) as the Polling Place/Station.
- The other Polling Districts within Tonbridge moved to match the new Ward boundaries for each ward.
- The names of some of the Polling Districts changed to reflect the new ward names.
- The Polling Districts all been recoded.

RECOMMENDED: That, subject to the ward changes being laid to law in Parliament in October 2022, the final proposals, as detailed in the report, be approved



***Referred to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

3 October 2022

Report of the Chief Executive

Part 1- Public

Matters for Recommendation to Council

1 FINAL PROPOSALS FOR REVIEW OF POLLING DISTRICTS AND POLLING PLACES

Following receipt of the final recommendations for the warding arrangements, from the Local Government Boundary Commission for England, a Polling District & Polling Place review, has been undertaken to implement the changes to the warding arrangements and ensure the Polling Districts lie within the Parish, Ward and Constituency boundaries.

1.1 Background

- 1.1.1 Following the consultation period, this report details the final proposals for the new structure of the Polling Districts/Places/Stations under the new warding arrangements. Previous reports at **Annexe 1 & Annexe 1a**

1.2 Consultation Results

- 1.2.1 We received 7 responses to our consultation. The consultation ran from 27th June – 21st August 2022. Only 1 response had counter proposals, which we have looked at and taken some into consideration, in the final proposals.

- 1.2.2 Please see all consultation responses at **Annexe 9**

1.3 Final Polling Districts/Places

- 1.3.1 At **Annexe 2** is a list of the existing wards, the Polling Districts and Polling Places that are within each Polling District.
- 1.3.2 At **Annexe 3** is a list of the new wards and the final proposed Polling Districts and Polling Places that are within each Polling District.
- 1.3.3 At **Annexe 4** is the existing Wards map
- 1.3.4 At **Annexe 5** is the new Wards map.
- 1.3.5 At **Annexe 6** is the existing Polling Districts/Places map

1.3.6 At **Annexe 7** is the final proposed Polling Districts and Polling Places map. For clarity, the red lines are the new ward boundaries, the blue lines are the proposed polling district boundaries, and the green lines are parish boundaries.

1.3.7 At **Annexe 8** is the Polling District/Place Review Timetable

1.3.8 The main changes are as follows: -

- Polling District boundary between Walderslade and Aylesford North & North Downs moved out to match the new ward boundary.
- Polling District boundary between Aylesford North & North Downs and Aylesford South & Ditton moved slightly to match the new ward boundary.
- We have created a new Polling District within Snodland West and Holborough lakes ward, called Holborough Lakes with the new Polling Place/station situated at the Holborough Lakes Village Hall.
- We have created a new polling district within Tonbridge between Hildenborough and Judd. This Polling District has been created as the Ward and Parish boundaries are not co-terminus. we will use the Oast Theatre (with Stocks Green CP as a back-up in the event of us not being able to use the theatre if an unscheduled election is called) as the Polling Place/Station. For clarity when there is a ward election for Hildenborough ward, residents in this Polling District will be able to vote, if there is a Parish election for Hildenborough the residents of this Polling District will not be able to vote as they sit outside the Parish.
- The other Polling Districts within Tonbridge have been moved to match the new Ward boundaries for each ward.
- The names of some of the Polling Districts have been changed to reflect the new ward names.
- The Polling Districts have all been recoded as well.

1.4 Legal Implications

1.4.1 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 and following a Local Government Boundary Review, where warding arrangements are changed.

1.5 Financial and Value for Money Considerations

1.5.1 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 reputational damage to the Council.

1.6 Risk Assessment

- 1.6.1 The requirements of 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.
- 1.6.2 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.

1.7 Equality Impact Assessment

- 1.7.1 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.

1.8 Recommendations

- 1.8.1 To approve the final proposals, subject to the ward changes being laid to law in Parliament in October 2022.

Background papers:

contact: Daune Ashdown

Annexe 1 & 1a

Julie Beilby
Electoral Registration Officer
Chief Executive

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

22 March 2022

Report of the Chief Executive

Part 1- Public

Matters for Information

1 REVIEW OF POLLING DISTRICTS AND POLLING PLACES

Following receipt of the final recommendations for the warding arrangements, from the Local Government Boundary Commission for England, a Polling District & Polling Place review, needs to be undertaken to implement the changes to the warding arrangements.

1.1 Background

- 1.1.1 The Local Government Boundary Commission for England have undertaken a review of the warding arrangements for Tonbridge & Malling Borough Council and sent over the final recommendations for the number of Councillors and wards to cover the borough of Tonbridge & Malling.
- 1.1.2 To implement these changes a review of the Polling Districts and Places needs to be undertaken. The changes need to be implemented in time for the Local Elections in May 2023.
- 1.1.3 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. The Council also has to keep these arrangements under review.

1.2 Definitions

- 1.2.1 For the avoidance of doubt, it is important to note the following definitions:
 - A **Polling District** is a geographical area created by the 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.
 - In England each parish is to be a separate polling district. This means that a parish must not be in a polling district which has a part of either a different parish within it, or any unparished part of the local authority area within it, unless special circumstances apply. Those special circumstances

could arise if, for example, the parish has only a small number of electors and it is not practicable for the parish to be its own polling district.

- Any areas that are not co-terminus, within the Parliamentary Constituency boundaries, must be designated a Polling District on their own.
- 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 them under review.
- A **Polling Station** is the actual room or 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.

1.3 Designation of Polling Districts and Polling Places

1.3.1 Local authorities must comply with the following legislative requirements regarding the designation of polling districts and polling places:

- each parish in England is to be a separate polling district, unless special circumstances apply.
- The council must designate a polling place for each polling district, unless the size or other circumstance of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors
- The polling place must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district (for examples if no accessible polling place can be identified in the district)
- 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

1.3.2 Local authorities must also comply with the following access requirements. As part of the review, they must:

- Seek to ensure that all electors in the local authority area have such reasonable facilities for voting as are practicable in the circumstances

- Seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled

1.3.3 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 included 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, the use of schools is unavoidable.

1.4 Formal Review Process and Timetable

1.4.1 The guidance issued by the Local Government Boundary Commission for England identifies that the review must be complete and the changes in place for the May 2023 local elections. 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, the council has been mindful of the other competing priorities within Electoral Services, namely:

- The timing of canvass, starting in July 2022 and concluding November 2022 with the publication of the register on 1st December 2022
- The need to prepare for and ensure the new arrangements are in place ready to conduct the Borough & Parish Elections in May 2023.

1.4.2 When carrying out a review the local authority must:

- Publish a notice of the holding of a review
- Consult the (Acting) Returning Officer for every Parliamentary constituency which is wholly or partly in its area
- Publish all representations made by an (Acting) Returning Officer within 30 days of receipt by posting a copy of them at the local authority's office and in at least one conspicuous place in their area and on the authority website.
- Seek representations from such person as it thinks has particular expertise in relation to access to premises or facilities for persons who have different forms of disability. Such persons must have an opportunity to make representations and to comment on the representations made by the (Acting) Returning Officer.

1.4.3 Consultation

- Throughout the review, all working papers, minutes of meetings and correspondence will be available for public inspection at the Electoral Services Office. All these items will be published when the review has been completed, including reasons for its decisions.

- The review documents will be published on our website. This will include maps of the proposed Polling Districts. All representations received will be uploaded.
- During the formal consultation period, we will contact the following to invite their comments on the proposed polling districts and polling places: Borough and County Councillors, Parish Councils, Members of Parliament, local political parties, Tonbridge & Malling Seniors Forum, Tonbridge Community Forum, managers & booking clerks for current and proposed venues, 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.

1.4.4 The legislation suggests an approach starting with polling districts, followed by choosing polling places and polling stations. In practice, however, it is important that good quality polling places/stations are identified first, which can then be used as part of the process of defining suitable polling district arrangements that comply with the requirements set out in legislation.

1.4.5 A proposed timetable for the review is attached as Annexe 1.

1.5 Electoral Commission Guidance

1.5.1 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 requirement of electors or disabled electors.

1.5.2 The following people can appeal to the Commission, a parish council, 30 or more registered electors, any person who made comments during the review or any non-electors who has expertise in access to premises for disabled people.

1.5.3 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.

1.5.4 Whilst it is unlikely that these steps will be necessary, it is important that the public consultation process is complete and that final boundaries take into account the views presented, where possible.

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

- Where possible polling district boundaries should be co-terminus with existing Parish ward or borough ward boundaries
- Where possible “natural” boundaries should be used, such as railways, major road, waterways.

- All properties in a minor road or estate should be in the same polling district
- 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 Legal Implications

- 1.6.1 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 and following a Local Government Boundary Review, where warding arrangements are changed.

1.7 Financial and Value for Money Considerations

- 1.7.1 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 reputational damage to the Council.

1.8 Risk Assessment

- 1.8.1 The requirements of 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.
- 1.8.2 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.

1.9 Equality Impact Assessment

- 1.9.1 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.

Background papers:

contact: Daune Ashdown

Nil

Julie Beilby
(Acting) Returning Officer
Chief Executive

Annexe 1

Polling Station and Polling Place Review Timetable

Date	Action
1 st May 2022	Publish Notice of Review
15 th June 2022	Draft proposals go to General Purposes Committee
27 th June 2022	Publication of draft proposals - 8 week consultation begins
July/August	Polling Place/Station reviews
4 th October 2022	Final Proposals to General Purposes Committee
1 st December 2022	Register published with existing arrangements.
December 2022/January 2023	Upload all changes into Elections system and Council wide
1 st February 2023	Publish new Register with new arrangements in place
1 st March 2023	Timetable for Local Elections starts
4 th May 2023	Borough & Parish Elections

TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

15 June 2022

Report of the Chief Executive

Part 1- Public

Matters for Information

1 DRAFT PROPOSALS FOR REVIEW OF POLLING DISTRICTS AND POLLING PLACES

Following receipt of the final recommendations for the warding arrangements, from the Local Government Boundary Commission for England, a Polling District & Polling Place review, needs to be undertaken to implement the changes to the warding arrangements and ensure the Polling Districts lie within the Parish, Ward and Constituency boundaries.

1.1 Background

1.1.1 Following the report to General Purposes Committee on 22nd March, (attached **Annexe 1**, timetable amended slightly), informing the Committee that a Polling District/Place/Station review would need to be undertaken, this report details the proposals for the new structure of the Polling Districts, Places and Stations under the new warding arrangements and the commencement of the Consultation period.

1.2 Proposed Polling Districts/Places

1.2.1 At **Annexe 2** is a list of the existing wards and the Polling Districts and Polling Places that are within each Polling District.

1.2.2 At **Annexe 3** is a list of the new wards and the proposed Polling Districts and Polling Places that are within each Polling District.

1.2.3 At **Annexe 4** are the existing Wards map

1.2.4 At **Annexe 5** are the new Wards maps.

1.2.5 At **Annexe 6** are the existing Polling Districts/Places map

1.2.6 At **Annexe 7** are the proposed Polling Districts and Polling Places map. For clarity, the red lines are the new ward boundaries, the blue lines are the proposed polling district boundaries, and the green lines are parish boundaries.

1.2.7 At **Annexe 8** is the Polling District/Place Timetable

1.2.8 The main changes are as follows: -

- Polling District boundary between Walderslade and Aylesford North & North Downs moved out to match the new ward boundary.
- Polling District boundary between Aylesford North & North Downs and Aylesford South & Ditton moved slightly to match the new ward boundary.
- We have created a new Polling District within Snodland West and Holborough lakes ward, called Holborough Lakes with the new Polling Place/station situated at the Holborough Lakes Village Hall.
- We have created a new polling district within Tonbridge between Hildenborough and Judd. This Polling District has been created as the ward and Parish boundaries are not co-terminus. The Polling District will not have a Polling Place/Station we will use the Stocks Green CP Polling Place/Station. For clarity when there is a ward election for Hildenborough ward, residents in this Polling District will be able to vote, if there is a Parish election for Hildenborough the residents of this Polling District will not be able to vote as they sit outside the Parish.
- The other Polling Districts within Tonbridge have been moved to match the new Ward boundaries for each ward.
- The names of some of the Polling Districts have been changed to reflect the new ward names.
- The Polling Districts have all been recoded as well.

1.3 Consultation

- 1.3.1 All of the attached documents will be shared with electors, councillors, parish councils and various other organisations within the Borough, as part of the consultation.
- 1.3.2 The consultation will run from 27th June for 8 weeks. The consultation will be uploaded on the TMBC web site and people will have the opportunity to add their comments and ideas.
- 1.3.3 All Polling Places will be reviewed during July/August 2022, to ensure their continued suitability.
- 1.3.4 At the end of the consultation, all the ideas will be looked at and the proposals amended where necessary.
- 1.3.5 The final recommendations will be brought to General Purpose Committee on 12th September and then ratified at Council following that 25 October 2022.

- 1.3.6 All changes will be uploaded to the Elections system during December and January, with an updated register being published on 1st February 2023, ready for the Local elections in May 2023.

1.4 Legal Implications

- 1.4.1 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 and following a Local Government Boundary Review, where warding arrangements are changed.

1.5 Financial and Value for Money Considerations

- 1.5.1 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 reputational damage to the Council.

1.6 Risk Assessment

- 1.6.1 The requirements of 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.
- 1.6.2 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.

1.7 Equality Impact Assessment

- 1.7.1 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.

1.8 Recommendations

- 1.8.1 To approve the draft proposals for the purpose of going out to consultation.
- 1.8.2 To endorse the consultation proposals.

Background papers:

contact: Daune Ashdown

Annexe 1

Julie Beilby
Electoral Registration Officer

Chief Executive

List of Existing Polling District Places

Chatham & Aylesford Constituency

Ward: Aylesford North & Walderslade

Polling district	Polling Place (at or near...)
CAA Aylesford North	Aylesford Community Centre
CAB Blue Bell Hill	Blue Bell Hill Village Hall
CAC Eccles	Eccles Church Hall
CAD Walderslade	Tunbury Hall

Ward: Aylesford South

Polling district	Polling Place (at or near...)
CBA Aylesford South	RBL Community Hall

Ward: Burham & Wouldham

Polling district	Polling Place (at or near...)
CCA Burham	Burham Old School Community Centre
CCB Wouldham	Wouldham All Saints C of E Primary School

Ward: Ditton

Polling district	Polling Place (at or near...)
CDA Ditton North	K Sports formerly Cobdown Sports & Social Club
CDB Ditton South	Ditton Community Centre

Ward: Larkfield North

Polling district	Polling Place (at or near...)
CEA Larkfield North	Larkfield Village Hall

Ward: Larkfield South

Polling district	Polling Place (at or near...)
CFA Larkfield South	Church Farm Hall

Ward: Snodland East & Ham Hill

Polling district	Polling Place (at or near...)
CGA Snodland North East	Devonshire Rooms
CGB Snodland South	Snodland Youth and Childrens Centre

Ward: Snodland West & Holborough Lakes

Polling district	Polling Place (at or near...)
CHA Snodland West & Holborough Lakes	Snodland Community Centre

Tonbridge Constituency

Ward: **Borough Green & Long Mill**

Polling district	Polling Place (at or near...)
TAA Borough Green	Borough Green Village Hall
TAB Platt	Platt Memorial Hall
TAC Plaxtol	Plaxtol Memorial Hall
TAD Shipbourne	Shipbourne Village Hall

Ward: **Cage Green**

Polling district	Polling Place (at or near...)
TBA Cage Green North	Hugh Christie Technology College
TBB Cage Green South	St Philip's Church

Ward: **Castle**

Polling district	Polling Place (at or near...)
TCA Castle North	St Saviours Church
TCB Castle South	Tonbridge Castle

Ward: **Downs & Mereworth**

Polling district	Polling Place (at or near...)
TDA Addington	Addington Village Hall
TDB Birling	Birling Village Hall
TDC Mereworth	Mereworth Village Hall
TDD Offham	Offham Village Hall
TDE Ryarsh	Ryarsh Village Hall
TDF Trottiscliffe	Trottiscliffe Village Hall
TDG West Peckham	West Peckham Village Hall

Ward: **East Malling**

Polling district	Polling Place (at or near...)
TEA East Malling	East Malling Village Hall

Ward: **Hadlow & East Peckham**

Polling district	Polling Place (at or near...)
TFA East Peckham	Curran Hall, East Peckham Methodist Church
TFB Golden Green	Golden Green Community Centre
TFC Hadlow	Hadlow Old School

Ward: **Higham**

Polling district	Polling Place (at or near...)
TGA Higham	Methodist Hall

Ward: **Hildenborough**

Polling district	Polling Place (at or near...)
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THA Hildenborough North	St Johns Church Hall
THB Hildenborough South	Stocks Green CP School

Ward: **Judd**

Polling district	Polling Place (at or near...)
TJA Judd Central	St Stephens Church Centre
TJB Judd North	Tonbridge Youth Hub
TJC Judd South	West Kent College

Ward: **Kings Hill**

Polling district	Polling Place (at or near...)
TKA Kings Hill North East	Kings Hill Cricket Club Pavillion
TKC Kings Hill South	Kings Hill Community Centre
TKD Mereworth Airfield	Kings Hill Community Centre

Ward: **Medway**

Polling district	Polling Place (at or near...)
TLA Medway North	Fisher Hall
TLB Medway South	Hillview School for Girls

Ward: **Trench**

Polling district	Polling Place (at or near...)
TMA Trench	Six in One Community Centre

Ward: **Vauxhall**

Polling district	Polling Place (at or near...)
TNA Vauxhall North	The New Telegraph Club
TNB Vauxhall South	Tonbridge Grammar School for Girls

Ward: **Wateringbury**

Polling district	Polling Place (at or near...)
TPA Wateringbury	Wateringbury Village Hall

Ward: **West Malling & Leybourne**

Polling district	Polling Place (at or near...)
TQA Leybourne Village	Leybourne Village Hall
TQB Leybourne Chase	Leybourne Chase Community Hall
TQC West Malling	West Malling Baptist Church

Ward: **Wrotham, Ightham & Stansted**

Polling district	Polling Place (at or near...)
TRA Ightham	Ightham Village Hall
TRB Stansted	Stansted Village Hall
TRC Wrotham	St George's Hall

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List of Proposed Polling Districts/Places

Chatham & Aylesford Constituency

Ward: **Walderslade**

Polling district	Polling Place (at or near...)	Changes	Proposed new codes
CAD Walderslade	Tunbury Hall	Polling district boundary revised to follow amended ward boundary.	CAA

Ward: **Aylesford North & North Downs**

Polling district	Polling Place (at or near...)	Changes	
CAA Aylesford North	Aylesford Community Centre	Polling district boundary revised to follow amended ward boundary.	CBA
CAB Blue Bell Hill	Blue Bell Hill Village Hall	No changes	CBB
CAC Eccles	Eccles Church Hall	No changes	CBC
CCA Burham	Burham Old School Community Centre	No changes	CBD
CCB Wouldham	Wouldham All Saints C of E Primary School	No changes	CBE

Ward: **Aylesford South & Ditton**

Polling district	Polling Place (at or near...)	Changes	
CBA Aylesford South	RBL Community Hall	No changes	CCA
CDA Ditton North	K Sports formerly Cobdown Sports and Social Club	No changes	CCB
CDB Ditton South	Ditton Community Centre	No changes	CCC

Ward: **Larkfield**

Polling district	Polling Place (at or near...)	Changes	
CEA Larkfield North	Larkfield Village Hall	Polling district boundary revised to follow amended ward boundary.	CDA
CFA Larkfield South	Church Farm Hall	Polling district boundary revised to follow amended ward boundary.	CDB

Ward: **Snodland East & Ham Hill**

Polling district	Polling Place (at or near...)	Changes	
CGA Snodland East	Devonshire Rooms	Polling district boundary revised	CEA
CGB Snodland Ham Hill	Snodland Youth and Childrens Centre	Polling district boundary revised	CEB

Ward: **Snodland West & Holborough Lakes**

Polling district	Polling Place (at or near...)	Changes	
CHA Snodland West	Snodland Community Centre	Polling district boundary revised to follow amended ward boundary.	CFA
CHB Holborough Lakes	Community Centre, Holborough Lakes	New Polling District Place and station	CFB

Tonbridge Constituency

Ward: **Birling, Leybourne & Ryarsh**

Polling district	Polling Place (at or near...)	Changes	
TDB Birling	Birling Village Hall	No changes	TAA
TDE Ryarsh	Ryarsh Village Hall	No changes	TAB
TQA Leybourne Village	Leybourne Village Hall	No changes	TAC
TQB Leybourne Chase	Leybourne Chase Community Hall	No changes	TAD

Ward: **Borough Green & Platt**

Polling district	Polling Place (at or near...)	Changes	
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TAA Borough Green	Borough Green Village Hall	No changes	TBA
TAB Platt	Platt Memorial Hall	No changes	TBB

Ward: **Pilgrims with Ightham**

Polling district	Polling Place (at or near...)	Changes	
TDA Addington	Addington Village Hall	No changes	TCA
TDF Trottiscliffe	Trottiscliffe Village Hall	No changes	TCB
TRA Ightham	Ightham Village Hall	No changes	TCE
TRB Stansted	Stansted Village Hall	No changes	TCC
TRC Wrotham	St George's Hall	No changes	TCD

Ward: **East Malling, West Malling & Offham**

Polling district	Polling Place (at or near...)	Changes	
TDD Offham	Offham Village Hall	No changes	TDA
TQC West Malling	West Malling Baptist Church	No changes	TDB
TEA East Malling	East Malling Village Hall	No changes	TDC

Ward: **Kings Hill**

Polling district	Polling Place (at or near...)	Changes	
TKA Kings Hill North East	Kings Hill Cricket Club Pavillion	No changes	TEA
TKB Kings Hill South	Kings Hill Community Centre	No changes	TEB
TKC Mereworth Airfield	Kings Hill Community Centre	No changes	TEC

Ward: **East Peckham, West Peckham, Mereworth & Watlingtonbury**

Polling district	Polling Place (at or near...)	Changes	
TDC Mereworth	Mereworth Village Hall	No changes	TFA
TDG West Peckham	West Peckham Village Hall	No changes	TFB
TFA East Peckham	Curran Hall, East Peckham Methodist Church	No changes	TFC
TPA Watlingtonbury	Watlingtonbury Village Hall	No changes	TFD

Ward: **Bourne**

Polling district	Polling Place (at or near...)	Changes	
TAC Plaxtol	Plaxtol Memorial Hall	No changes	TGA
TAD Shipbourne	Shipbourne Village Hall	No changes	TGB
TFC Hadlow	Hadlow Old School	No changes	TGC
TFB Golden Green	Golden Green Community Centre	No changes	TGD

Ward: **Cage Green & Angel**

Polling district	Polling Place (at or near...)	Changes	
TBB Cage Green North	St Philip's Church	Polling district boundary revised to follow amended ward boundary. Change to polling district name.	THA
TCA Cage green South	St Saviours Church	Polling district boundary revised to follow amended ward boundary. Change to polling district name.	THB
TLA Angel	Fisher Hall	Polling district boundary revised to follow amended ward boundary. Change to polling district name.	THC

Ward: **Higham**

Polling district	Polling Place (at or near...)	Changes	
TGA Higham	Methodist Hall	Changes to boundary to follow new ward boundary	TJA

Ward: **Hildenborough**

Polling district	Polling Place (at or near...)	Changes	
THA Hildenborough North	St Johns Church Hall	No changes	TKA
THB Hildenborough South	Oast Theatre/ backup Stocks Green CP School	New Station	TKB

THC Hildenborough East	Oast Theatre/back upStocks Green CP School	New Polling District/Station	TKC
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Ward: **Judd**

Polling district	Polling Place (at or near...)	Changes	
TCB Judd Castle	Tonbridge Castle	Polling district boundary revised to follow amended ward boundary. Change to Polling District name.	TLA
TJA Judd Central	St Stephens Church Centre	No changes	TLB
TJB Judd North	Tonbridge Youth Hub	No changes	TLC
TJC Judd South	North Kent College	Change to name of College	TLD

Ward: **Trench**

Polling district	Polling Place (at or near...)	Changes	
TMA Trench North	Six in One Community Centre	Polling district boundary revised to follow amended ward boundary, new Polling District name.	TMA
TBA Trench South	Hugh Christie Technology College	Polling district boundary revised to follow amended ward boundary, new Polling District name.	TMB

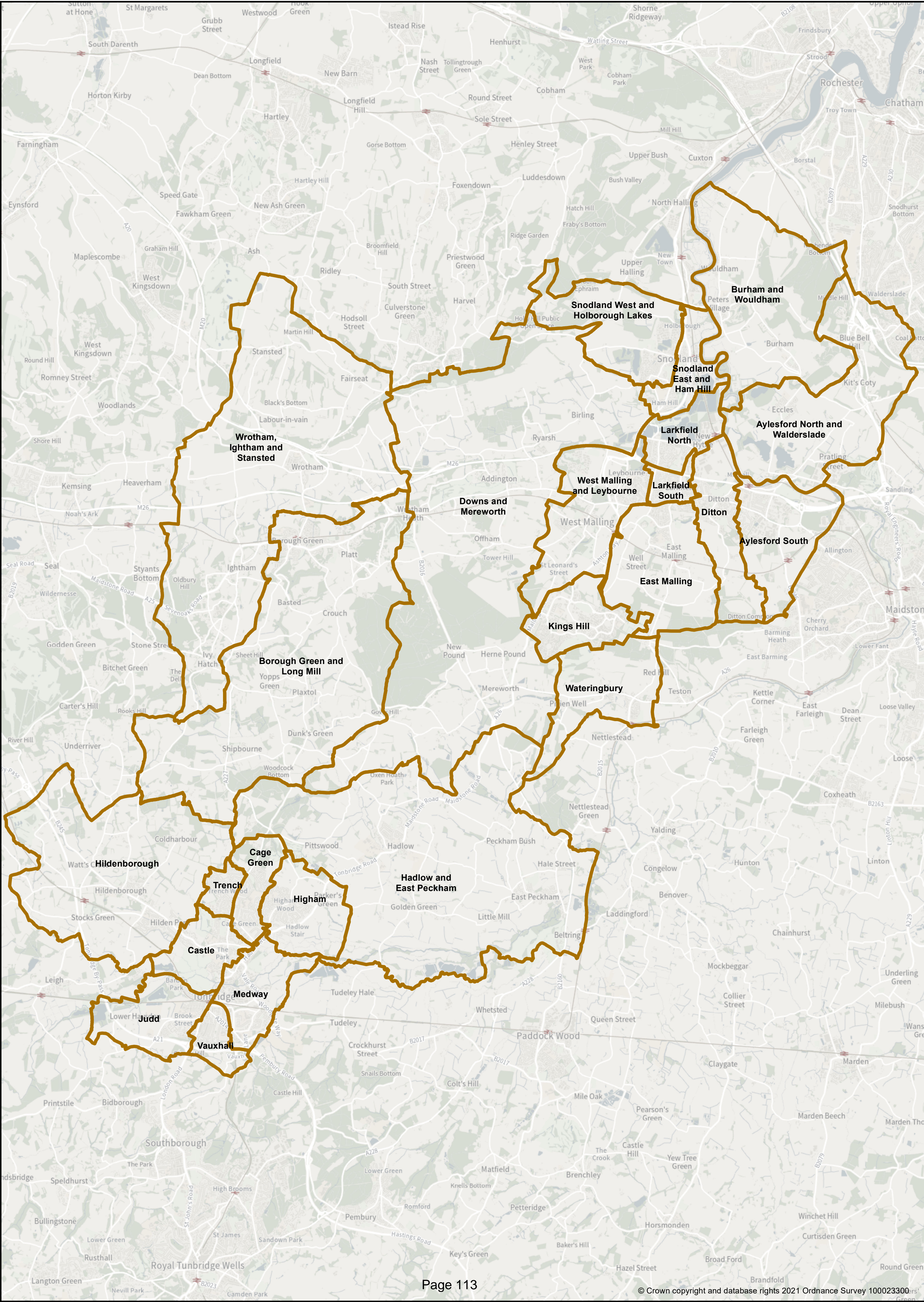
Ward: **Vauxhall**

Polling district	Polling Place (at or near...)	Changes	
TLB Vauxhall East	Hillview School for Girls	Polling district boundary revised to follow amended ward boundary, new Polling District name.	TNA
TNA Vauxhall North	The New Telegraph Club	No changes	TNB
TNB Vauxhall South	Tonbridge Grammar School for Girls	No changes	TNC

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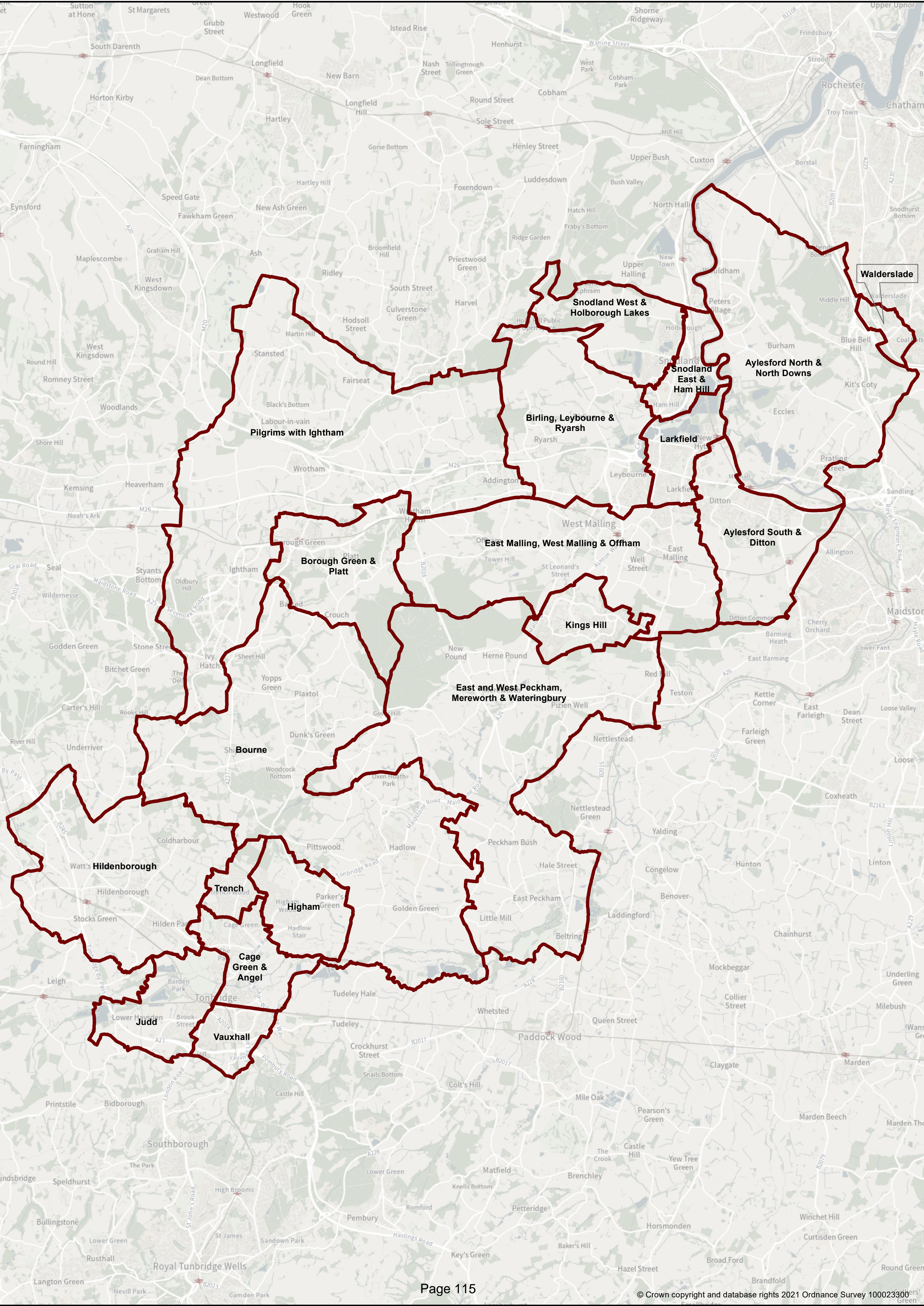
Annexe 4

EXISTING WARD BOUNDARIES MAP

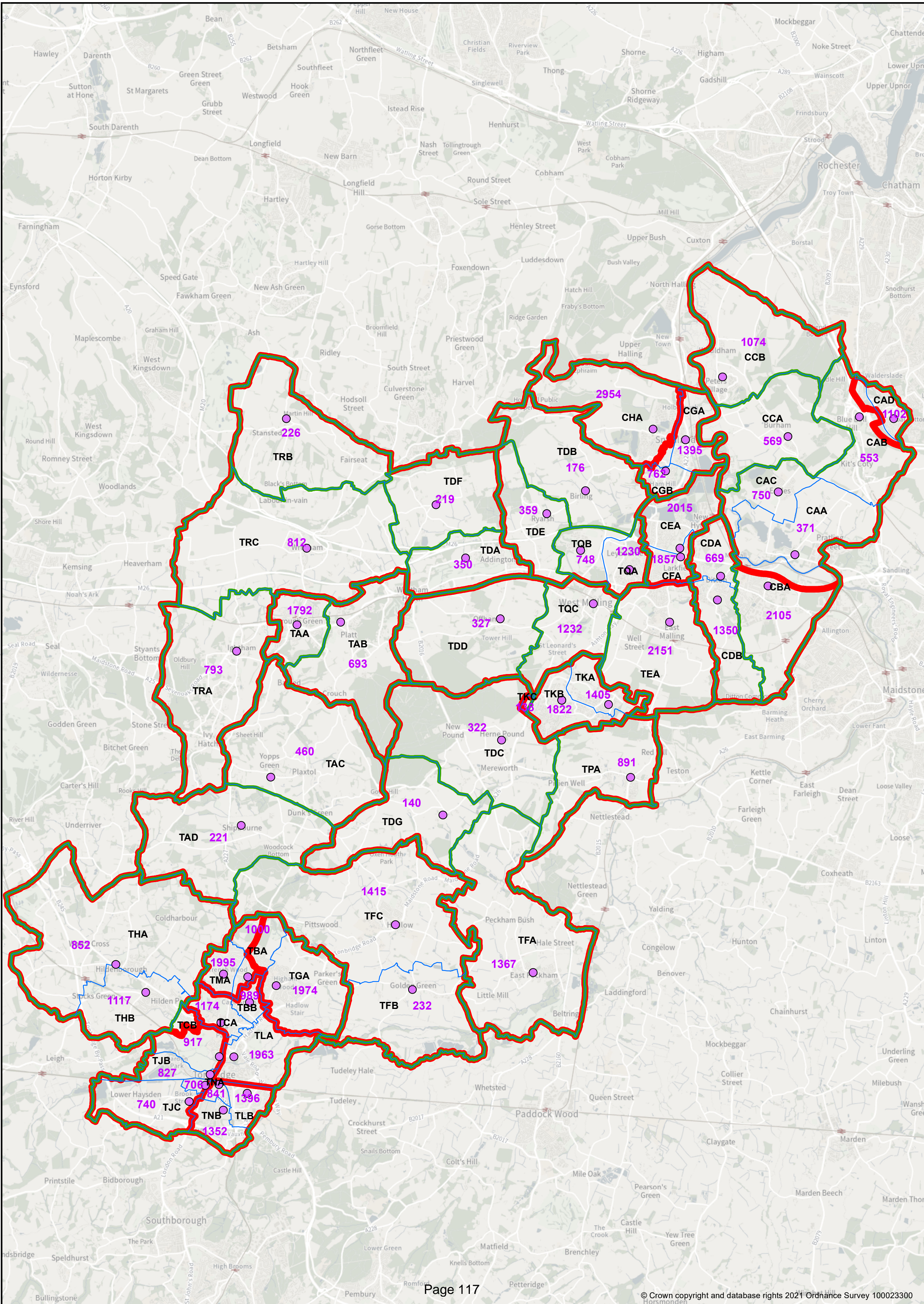


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Annexe 5
NEW WARD BOUNDARIES MAP

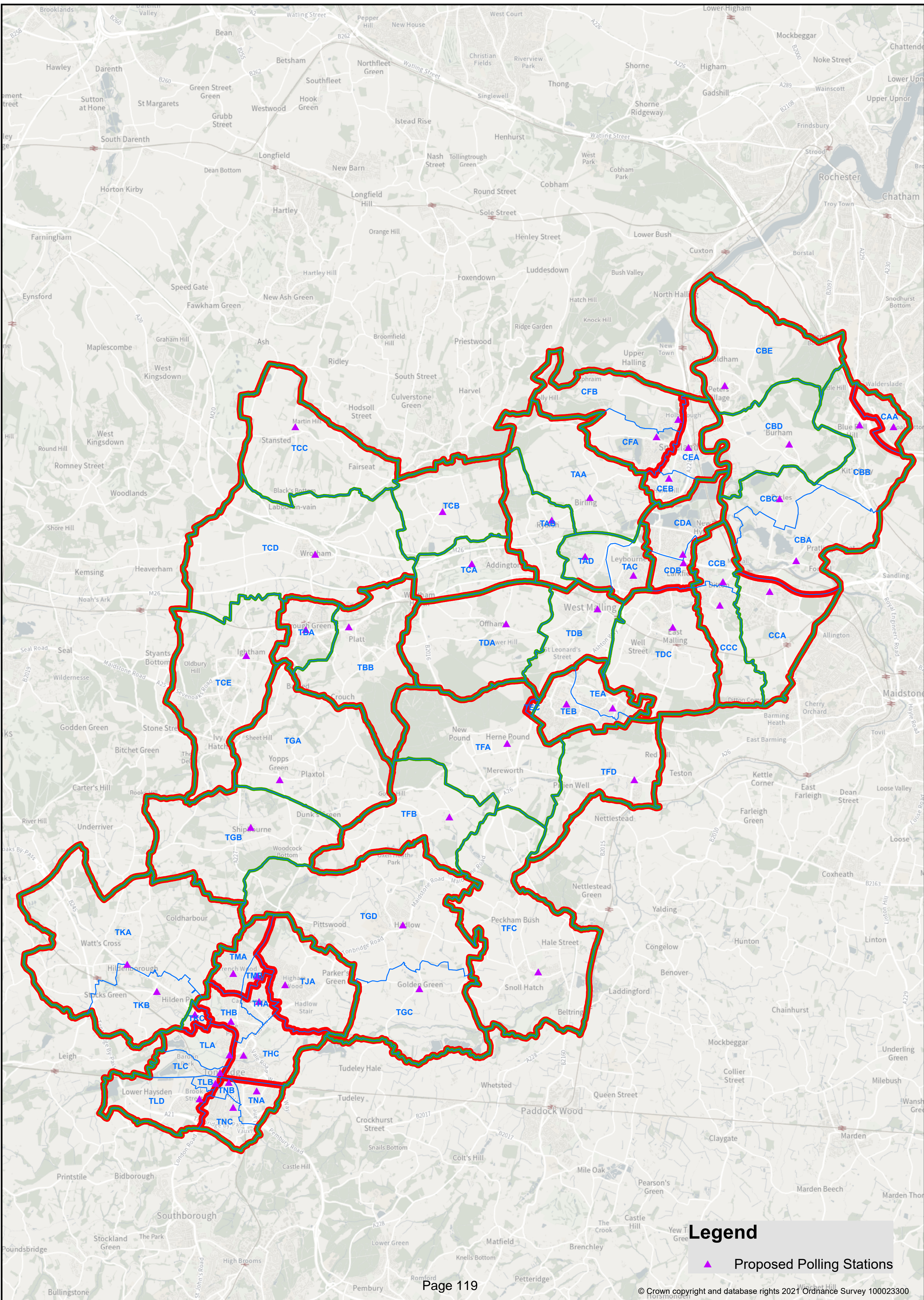


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PROPOSED POLLING DISTRICTS WITH NEW WARDS



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Polling Station and Polling Place Review Timetable

Date	Action
1 st June 2022	Publish Polling District/Place Review notice
15 th June 2022	Draft proposals go to General Purposes Committee
27 th June 2022	Publication of draft proposals - 8 week consultation begins
July/August 2022	Polling Place/Station reviews
12 th September 2022	Final Proposals to General Purposes Committee
4 th October 2022	Recommendations to Full Council
1 st December 2022	Register published with existing arrangements.
December 2022/January 2023	Upload all changes into Elections system and Council wide
1 st February 2023	Publish new Register with new arrangements in place
1 st March 2023	Timetable for Local Elections starts
4 th May 2023	Borough & Parish Elections

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Summary of Responses

1

Please be advised that in providing feedback, all names and comments are open to the public as part of this consultation. By continuing with this questionnaire do you agree to these details being made public?



2

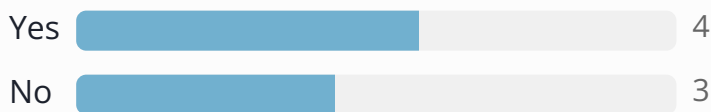
Following the review of the Local Ward Boundaries in Tonbridge & Malling and the subsequent recommended changes, as required we have undertaken a review of The Polling Station Districts, Places and Stations. The review was launched on 1st June 2022, and we are now undertaking a consultation, which ends on 21st August.

Please find the documents detailing the existing ward boundaries and Polling Districts, and the new ward boundaries and proposed Polling Districts in the Consultation Document section. After reading, please provide any comments or ideas of alternative proposals you may have in the text box below.

This question has been answered 5 times.

3

Are you a local resident?



4

Do you represent a local business or organisation?

Yes  3

No  4

4a

If yes, please specify:

This question has been answered 3 times.

Report on Questionnaire Answers

Questionnaire: Proposals for Review of Polling Districts and Polling Places.

Question: [1] Please be advised that in providing feedback, all names and co...

Respondent Name	User Response: Selected Option Label
West Malling Parish Council (Mrs Claire Christmas)	Yes
TMBC (Cllr Matt Boughton)	Yes
Mr Royston Winnett	Yes
Cllr James Lark	Yes
West Malling Baptist Church (Miss Janice Webb)	Yes
Sevenoaks District Council (Dr. Pav Ramewal)	Yes
Medway Council (Jane Ringham)	Yes

Report run at 23 Aug 2022 12:56:35. Total records: 7

Report on Questionnaire Answers

Questionnaire: Proposals for Review of Polling Districts and Polling Places.

Question: [2] Following the review of the Local Ward Boundaries in Tonbridge...

Respondent Name	User Response: Text
West Malling Parish Council (Mrs Claire Christmas)	West Malling Parish Council does not have any comments to make on the new ward boundaries and proposed polling districts.
TMBC (Cllr Matt Boughton)	<p>There are just a few points I'd have. I'll use the proposed PD to refer to each:</p> <p>Aylesford South and Ditton</p> <p>Given the size of this PD is now over 2,000 electors, has any consideration been given to a Polling Station south of the A20?</p> <p>Snodland West and Holborough Lakes</p> <p>The boundary of the Holborough Lakes polling station looks perfect.</p> <p>Trench</p> <p>Under the new boundaries TMA will be considerably larger than TMB, which loses all of the electors on Whistler Road and the roads off it to TJA given they will now fall in Higham ward.</p> <p>Has any consideration been given to using the pre-2015 PD boundary here? The roads at the northern end of the current Trench ward were in Cage Green pre-2015 and therefore would have voted at Hugh Christie, TMB polling station. If these were moved into TMBC it would result in a better split between stations?</p> <p>Cage Green and Angel</p> <p>Again pre-2015 the houses on A26 Hadlow Road between The Ridgeway and Higham Lane fell in Higham, meaning they voted at the Methodist Church (TJA polling station). When they moved wards they had to vote at Fisher Hall on Lyons Crescent, a considerable distance from their homes.</p> <p>With THA voting at St Philip's Church, which is considerably closer to these properties than THC, there may be some merit in moving these properties into THA from THC? In fact you could make the same argument for all the properties in THA which fall north east of the Cannon Lane traffic lights.</p> <p>Hildenborough</p> <p>TKC PD will be small but given they currently vote at Tonbridge Castle, Stocks Green School is a significant distance in the other direction from what they are currently used to.</p>

Respondent Name	User Response: Text
	<p>I wonder whether it would be possible to use either The Oast Theatre or Hilden Manor pub as its own polling station? I know access to the Stocks Green polling station can be awkward as well and given there are a couple of venues right in the heart of the PD that could be used, this would seem a sensible location?</p> <p>Vauxhall</p> <p>The TNA PD is the same boundaries as the current TLB PD. I know that residents on the Somerhill Green development are reluctant to have to go all the way to Hillview School for Girls to vote when there are also parking issues. Could we create a new PD at Bishop Chavasse Primary School for this development, perhaps with Vauxhall Gardens and Pembury Road (those properties that fall in TNA) included too? This may become too small but would certainly be a better solution for Somerhill Green residents.</p>
West Malling Baptist Church (Miss Janice Webb)	<p>No comments on the proposed changes to ward boundaries and polling districts.</p> <p>It would appear that from the documentation that it has been assumed that West Malling Baptist Church will be registered on a permanent basis to act as a Polling Station. The church Trustees have been willing to allow its premises to be used as a Polling Station on a temporary basis. The Trustees permission would have to be sort should the proposal be for this to become a permanent Polling Station within West Malling.</p>
Sevenoaks District Council (Dr. Pav Ramewal)	<p>Having considered the information in the proposals, the Returning Officer for Sevenoaks has no comments to make.</p>
Medway Council (Jane Ringham)	<p>On behalf of the ARO for Chatham & Aylesford constituency I note that apart from some changes to polling district boundaries, it seems that there is only one change to the polling places in the part of the Constituency within TMBC.</p>

Report run at 23 Aug 2022 12:46:58. Total records: 5

Report on Questionnaire Answers

Questionnaire: Proposals for Review of Polling Districts and Polling Places.

Question: [3] Are you a local resident?

Respondent Name	User Response: Selected Option Label
West Malling Parish Council (Mrs Claire Christmas)	No
TMBC (Cllr Matt Boughton)	Yes
Mr Royston Winnett	Yes
Cllr James Lark	Yes
West Malling Baptist Church (Miss Janice Webb)	Yes
Sevenoaks District Council (Dr. Pav Ramewal)	No
Medway Council (Jane Ringham)	No

Report run at 23 Aug 2022 12:54:20. Total records: 7

Report on Questionnaire Answers

Questionnaire: Proposals for Review of Polling Districts and Polling Places.

Question: [4] Do you represent a local business or organisation?

Respondent Name	User Response: Selected Option Label
West Malling Parish Council (Mrs Claire Christmas)	Yes
TMBC (Cllr Matt Boughton)	Yes
Mr Royston Winnett	No
Cllr James Lark	No
West Malling Baptist Church (Miss Janice Webb)	Yes
Sevenoaks District Council (Dr. Pav Ramewal)	No
Medway Council (Jane Ringham)	No

Report run at 23 Aug 2022 12:55:08. Total records: 7

Report on Questionnaire Answers

Questionnaire: Proposals for Review of Polling Districts and Polling Places.

Question: [4a] If yes, please specify: q7714563ft

Respondent Name	User Response: Text
West Malling Parish Council (Mrs Claire Christmas)	West Malling Parish Council
TMBC (Cllr Matt Boughton)	TMBC
West Malling Baptist Church (Miss Janice Webb)	I am a church trustee.

Report run at 23 Aug 2022 12:55:54. Total records: 3

FREEDOM OF INFORMATION – PUBLICATION SCHEME

Item GP 22/34 referred from General Purposes Committee of 3 October 2022

The report of the Director of Central Services and Deputy Chief Executive presented an updated Publication Scheme which addressed the specific obligation under the Freedom of Information Act 2000 to adopt and maintain a publication scheme and make certain information available to the public.

A revised Scheme was attached at Annex 1. The substance of the Scheme had not changed from the existing version. However, the opportunity was taken to review the Scheme to ensure that the website links remained current and to carry out some general minor updating.

RECOMMENDED: That the updated Publication Scheme, at Annex 1 to the report, be adopted.



***Referred to Council**

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TONBRIDGE & MALLING BOROUGH COUNCIL

GENERAL PURPOSES COMMITTEE

3 October 2022

Report of the Director of Central Services and Deputy Chief Executive

Part 1 - Public

Matters for recommendation to Council

1 FREEDOM OF INFORMATION – PUBLICATION SCHEME

Summary

This report seeks the approval of Members to adopt an updated publication scheme under the Freedom of Information Act 2000

1.1 Background

- 1.1.1 The Freedom of Information Act 2000 created a general right of access to information held by public authorities. Under the Act, public authorities have a specific obligation to adopt and maintain a publication scheme which has been approved by the Information Commissioner (ICO) and make certain information available to the public as a matter of course through that scheme.
- 1.1.2 To assist public authorities in meeting this obligation the ICO has developed model publication schemes, which all public authorities are required to adopt. The scheme is available in 2 versions – one is designed for those public authorities that are only covered for certain information, and the other is for all other public authorities. The model scheme applicable to Tonbridge & Malling (the latter of the 2 versions) commits the Borough Council to publish certain classes of information. It also specifies how we should make the information available, what we can charge and what we need to tell the public about the scheme.
- 1.1.3 As with the current publication scheme, the updated scheme follows the model scheme published by the ICO in 2013. The model scheme has not been reviewed since. The Borough Council's scheme was updated after the publication of the model scheme in 2013 but has been recently updated to ensure that the information published under our scheme is accessible via our new website.

1.2 The model scheme

- 1.2.1 The model scheme commits a public authority to proactively make the following seven classes of information available to the public –

- (a) Who the authority is and what it does;
- (b) What the authority spends and how it spends it;
- (c) What the authority's priorities are and how it is planning to meet these priorities;
- (d) How the authority makes decisions;
- (e) The authority's policies and procedures;
- (f) Lists and registers the authority holds;
- (g) The services the authority offers;

1.2.2 We are required to review and update the information contained within the scheme on a regular basis.

1.2.3 A revised publication scheme is attached as **Annex 1**. The substance of the scheme has not changed from the existing version. However, we have taken the opportunity to review the scheme to ensure that the website links remain current (following the launch of the new website) and also to carry out some general minor updating.

1.3 Legal Implications

1.3.1 The Borough Council is required to adopt and maintain a publication scheme under section 19 of the Freedom of Information Act 2000.

1.4 Financial and Value for Money Considerations

1.4.1 The Freedom of Information Act does not specify how much a public authority may charge for information published in accordance with a publication scheme. However, material that is published and accessed online under the model scheme must be provided free of charge.

1.4.2 Any charges that are levied must be published, indicating when we will charge and how much.

1.5 Risk Assessment

1.5.1 Not applicable.

1.6 Equality Impact Assessment

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

1.7 Policy Considerations

1.7.1 Not applicable

1.8 Recommendations

1.8.1 It is **RECOMMENDED** that the updated publication scheme at **Annex 1** be adopted.

Background papers:

contact: Adrian Stanfield

Nil

Adrian Stanfield

Director of Central Services and Deputy Chief Executive

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Tonbridge and Malling Borough Council

FREEDOM OF INFORMATION – PUBLICATION SCHEME

Tonbridge and Malling Borough Council has produced this Publication Scheme under Section 19 of the Freedom of Information Act 2000 (the FOI Act). It is based on the Model Publication Scheme prepared and approved by the Information Commissioner (2013 edition).

The scheme commits the Borough Council:

- To proactively publish or otherwise make available as a matter of routine, information, including environmental information, which is held by the authority and falls within the classifications below.
- To specify the information which is held by the authority and falls within the classifications below.
- To proactively publish or otherwise make available as a matter of routine, information in line with the statements contained within this scheme.
- To produce and publish the methods by which the specific information is made routinely available so that it can be easily identified and accessed by members of the public.
- To review and update on a regular basis the information the authority makes available under this scheme.
- To produce a schedule of any fees charged for access to information which is made proactively available.
- To make this publication scheme available to the public.
- To publish any dataset held by the authority that has been requested, and any updated versions it holds, unless the authority is satisfied that it is not appropriate to do so; to publish the dataset, where reasonably practicable, in an electronic form that is capable of re-use; and, if any information in the dataset is a relevant copyright work and the public authority is the only owner, to make the information available for re-use under a specified licence. The term 'dataset' is defined in section 11(5) of the Freedom of Information Act. The terms 'relevant copyright work' and 'specified licence' are defined in section 19(8) of that Act.

Purpose of the Scheme

Under Section 19 of the FOI Act, each public authority must produce a Publication Scheme. This has to set out what information it will make available as a matter of course, how and when it will do so, and whether or not this information will be made available free of charge. The authority must then release the information as promised in its scheme.

Classes of information

The classes of information have been organised into broad areas relating to services provided by Tonbridge and Malling Borough Council. These fall generally into the following 7 classes:-

- **Who we are and what we do**
- **What we spend and how we spend it**
- **What our priorities are and how we are doing**
- **How we make decisions**
- **Our policies and procedures**
- **Lists and Registers**
- **The services we offer**

The method by which information published under this scheme will be made available

Wherever possible, information will be provided on our website. Where it is impracticable to make information available on a website or when an individual does not wish or is unable to access the information by the website, we will indicate how information can be obtained by other means and provide it by those means.

In exceptional circumstances some information may be available only by viewing in person. Where this manner is specified, contact details will be provided. An appointment to view the information will be arranged within a reasonable timescale.

Information will be provided in the language in which it is held or in such other language that is legally required. Where the Borough Council is legally required to translate any information, it will do so.

Obligations under disability and discrimination legislation and any other legislation to provide information in other forms and formats will be adhered to when providing information in accordance with this scheme.

Charges which may be made for information published under this scheme

The purpose of this scheme is to make the maximum amount of information readily available at minimum inconvenience and cost to the public. Charges made by the authority for routinely published material will be justified and transparent and kept to a minimum.

Material which is published and accessed on a website will be provided free of charge.

Charges may be made for information subject to a charging regime specified by Parliament.

Charges may be made for actual disbursements incurred such as:

- photocopying
- postage and packaging
- the costs directly incurred as a result of viewing information

Charges may also be made for information provided under this scheme where they are legally authorised, they are in all the circumstances, including the general principles of the right of access to information held by public authorities, justified and are in accordance with a published schedule or schedules of fees which is readily available to the public.

Charges may also be made for making datasets (or parts of datasets) that are relevant copyright works available for re-use. These charges will be in accordance with either regulations made under section 11B of the Freedom of Information Act or other enactments.

If a charge is to be made, confirmation of the payment due will be given before the information is provided. Payment may be requested prior to provision of the information.

Written requests

Information held by the Borough Council that is not published under this scheme can be requested in writing, when its provision will be considered in accordance with the provisions of the Freedom of Information Act and/ or the Environmental Information Regulations.

Re-use of Public Sector Information and copyright

Subject to the following conditions, the Borough Council has no objection to organisations downloading its copyright-protected materials from the Tonbridge and Malling Borough Council website (the 'Materials') and reproducing them in their own publications, or on their internal computer networks.

Organisations using the Borough Council's materials must adhere to the following criteria.

- Organisations must ensure that they are using the latest version of the Materials available.
- Any publication or internal network which incorporates the Borough Council's Materials must include an acknowledgement of the source of such materials.
- The Material must be clearly separated from any comment made on it by the organisation or others.
- Readers of the Material must not be given the impression that the Borough Council is responsible for, or has in any way approved, the publication or network in which its Materials are reproduced.
- The Materials may not be altered or amended unless such material is clearly marked as altered or amended by the organisation or others.
- No fee may be charged by any organisation reproducing the Borough Council's Materials in respect of reproducing Materials.
- When reproducing the Borough Council's Materials, organisations must have regard to any qualifying statements or descriptions attached to the Materials, (for example, descriptions such as 'consultation document', 'discussion paper', or 'preliminary view' are important as are statements concerning the audience at which the Material is directed). If the Material is reproduced in full, or substantial extracts are reproduced, any qualifying statements attached to the Material must be included.

Any reproduction of the Borough Council's official forms, other than for the purpose of submitting information to the Borough Council, must be clearly marked 'SPECIMEN' unless otherwise expressly agreed by the Borough Council.

There is no charge for the reproduction of Materials made in accordance with these conditions.

This applies only to information in which the Council owns the copyright. For any other material, you must seek authorisation from the copyright holders concerned.

Access to Personal Information Under the Data Protection Act 2018

The Data Protection Act 2018 provides living individuals with the right of access to personal information held about them. The right applies to all Council information held in computerised form and also to non-computerised information held in filing systems structured so that specific information about particular individuals can be retrieved readily. The rights extend also to those archives that meet these criteria. However, the right is subject to exemptions which will affect whether information is provided and requests will be dealt with on a case by case basis.

Please send requests for access to information under the Data Protection Act “(Data Subject Access Requests)” to foi@tmbs.gov.uk or to:

Administrative and Property Services
Tonbridge & Malling Borough Council
Gibson Building

Gibson Drive
Kings Hill
West Malling
ME19 4LZ

Please provide as much detail as possible to help us find the information.

Note that the Data Protection Act 2018 does not give third parties rights of access to personal information for research purposes.

Environmental Information

If the information you want relates to the state of the environment, you can submit a request for information under the Environmental Information Regulations 2004. Please provide as much detail as possible to help us identify the information you are looking for.

Some environmental information is made available through our Publication Scheme and will be made available as set out above. Where information is not included in the scheme, it will be made available according to the fees structure set out in the Environmental Information Regulations 2004.

If we refuse to supply all or part of the information you have asked for, we will write to you explaining why. The reasons will be based on the exceptions in the regulations.

The Environmental Information Regulations can be purchased from HMSO, or can be read free of charge on the HMSO website.

Complaints and Appeals

If you are unhappy with the way we have dealt with a request, you should complain to us directly, using the Council's complaints procedure. Your initial complaint should be sent to the Director of Central Services and Deputy Chief Executive at monitoring.officer@tmhc.gov.uk.

The Information Commissioner is responsible for enforcing the operation of the Publication Scheme. In the case of a failure to deliver information through the Scheme, you may also appeal directly to the Information Commissioner at any time.

The Information Commissioner can be contacted by telephone on 0303 123 1113, by fax on 01625 524 510, or by post to:

Information Commissioner
Wycliffe House
Water Lane

Wilmslow
Cheshire
SK9 5AF

Personnel

Overall responsibility for the publication scheme resides with Adrian Stanfield, Director of Central Services and Monitoring Officer, who can be contacted at monitoring.officer@tmbc.gov.uk.

Day-to-day running of the Publication Scheme is undertaken by Administrative Services, who can be contacted at admin.services@tmbc.gov.uk.

1. WHO WE ARE AND WHAT WE DO:

Description	Where available	Fee
A-Z Services	Tonbridge and Malling Borough Council – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Visiting Council Offices	Contact us – Tonbridge and Malling Borough Council (tmbc.gov.uk)	
Council constitution	Read our constitution – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Council Meetings – agendas and minutes	Browse Meetings, 2022 (tmbc.gov.uk)	Free via website
Emergency Plans	Free to inspect	Free to view
Elected member contact details / pictures	Your Councillors (tmbc.gov.uk)	Free via website
Organisation chart	Tonbridge and Malling Borough Council organisation chart – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Code of conduct	Code of conduct for councillors – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Elections	Voting and elections – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website

2. WHAT WE SPEND AND HOW WE SPEND IT:

Budget	The council budget – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Medium Term Financial Strategy	The council budget – Tonbridge and Malling Borough Council (tmbc.gov.uk)	
Expenditure over £500	Council spending – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Statement of Accounts	The council budget – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Parking revenue	Parking income and expenditure – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Controlled parking spaces	Parking – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Trade union facility time	Trade union facility time – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Capital Strategy	The council budget – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Procurement Strategy	Tonbridge and Malling procurement strategy – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Members' Allowances & Expenses	Councillors - allowances and expenses – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Senior Officers' salaries	Council senior staff and salaries – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Grants	Grants to voluntary, community and social enterprise organisations – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Contracts	Bid for council contracts – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Fraud	Tackling fraud – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website

3. WHAT OUR PRIORITIES ARE AND HOW WE ARE DOING

Performance	http://www.tmbc.gov.uk/services/council-and-democracy/performance/council-performance	Free via website
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4. HOW WE MAKE DECISIONS

Constitution	Read our constitution – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Forthcoming Key Decisions	Browse plans - Cabinet, 2022 (tmbc.gov.uk)	Free via website
Cabinet Member Decisions	Your Councillors (tmbc.gov.uk)	Free via website
Standards	Code of conduct for councillors – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Petition Scheme	Petitions – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Overview & Scrutiny Committee	Committee details - Overview and Scrutiny Committee (tmbc.gov.uk)	Free via website
Local Code of Corporate Governance	Available to inspect	Free to view

5. OUR POLICIES AND PROCEDURES

Pay Policy Statement	Annual pay policy statement – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Equality Policy Statement	Equality policy statement and objectives – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Local Plan	Local plan – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Open Space Strategy	Available to inspect	Free to view
Tree Safety Strategy	Available to inspect	Free to view
Food Sampling Policy	Environmental health – Tonbridge and Malling Borough Council	Free via website

	tmbc.gov.uk	
Council Tax Reduction Scheme	Council tax and benefits – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Private Sector Housing Enforcement Policy 2022	Decision - Private Sector Housing Enforcement Policy (tmbc.gov.uk)	Free via website
Guidance to HMO Amenity Standards	Housing amenity standards – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Housing Assistance policy	Issue - items at meetings - Housing Assistance Policy Amendments (tmbc.gov.uk)	Free via website
Temporary Accommodation Policy	Housing strategy and policy – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website

6. LISTS AND REGISTERS

Notification of Members' interests / Register of gifts / hospitality	Your Councillors (tmbc.gov.uk)	Free via website
Licensing Act 2003 register	Licences – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free to view
Register of Hackney Carriage Licence Holders	Licences – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free to view
Register of Private Hire Licence Holders	Licences – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free to view
Register of Society lotteries	Available to inspect	Free to view
Register of Electors	Available to inspect	Free to view
Register of planning applications	View and comment on planning applications – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website. Hard copy version available to inspect.

Register of planning enforcement notices	Available to inspect	Free to view
Register of houses in multiple occupation	Available to inspect	Free to view
Register of Caravan Site licences	Available to inspect	Free to view
Assets of Community Value Register	Community services – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free to view
Details of all land and building assets	Land and buildings – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free to view
Public Health Funerals Record	Available to inspect	Free to view

7. THE SERVICES WE OFFER

A-Z Services	Tonbridge and Malling Borough Council – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Customer Services	Contact us – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website
Complaints	Make a complaint – Tonbridge and Malling Borough Council (tmbc.gov.uk)	Free via website

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Agenda Item 16

Item OS 22/32 (2) and (3) in respect of resourcing options, budget growth and fees and charges related to traveller and gypsy incursions referred from Overview and Scrutiny Committee of 6 October 2022 is 'to follow'.

These recommendations will be circulated as soon as possible.

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TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

06 October 2022

Report of the Director of Planning, Housing & Environmental Health

Part 1 - Public

Matters for Recommendation to Cabinet

1 PLANNING ENFORCEMENT REVIEW

1.1 Background

1.1.1 In January 2022, a scoping report was brought to Overview & Scrutiny that outlined the following areas for a service review to focus on:

- Review the schemes of prioritisation contained within the Plan (and as set out at Annexe 1 to this report) to ensure that the resources of the team remain focused on the most significant breaches and review the associated target timescales to ensure they remain reasonable, proportionate, and fit for purpose
- Linked to the above, review internal processes regarding case allocation, prioritisation and workflow management systems (the steps contained within Section 5 of the adopted Planning Enforcement Plan) to ensure that the adopted schemes of prioritisation and associated actions are adhered to in all circumstances
- Review the content of the Plan insofar as it relates to communicating with complainants (including where Members are the complainant) with a view to establishing key milestones within our investigations where they will be updated and to establish efficient internal processes to ensure agreed measures this is met
- Review the content of the Plan insofar as it relates to updating Members on enforcement investigations, with a particular emphasis on whether such updates should be focused on cases where Members have asked to be kept updated (either via the weekly open case list or otherwise) and/or for certain case types linked to the scheme of prioritisation, for example, and to
- establish efficient internal processes to ensure agreed measures can be met.

1.1.2 The Planning Enforcement Plan was first published in 2016 and has been appended by a number of protocols since that time. It has always been the intention that this document would be subject to regular review to ensure it

remains in line with legislative requirements and is a useful tool for both officers and those who engage with the service. As part of the issues explored below, a proposed revised version of the Enforcement Plan is attached at **Annexe one** and any key changes are highlighted in the body of the report.

- 1.1.3 As of 23 August, there are 435 live enforcement cases on the system which comprise 386 cases under investigation and pending consideration with a further 49 cases either awaiting the assessment of a planning application (before the enforcement case is decided) or having had formal enforcement action taken. In the past three years, the enforcement team have received 339 cases in 2019/20, 325 in 2020/21, 418 in 2021/22.

1.2 Planning Enforcement Plan – Prioritisation

- 1.2.1 At present, the prioritisation table is included within the 'Involvement in the Process' section of the Enforcement Plan. It is proposed however to move this to its own section, given that this is a fundamentally important part of the approach. It will now sit as Part 2, with Part 3 being for involvement in the process.
- 1.2.2 Given numbers of cases routinely reported to the Council, there are the following number of cases within the existing categories (snapshot from Member tracker data of 23 August);

Top	23
High	119
Medium	274
Other	11

The remaining eight cases are made up of High Hedge complaints and breaches of Article four Directions.

- 1.2.3 The information above demonstrates that with our case levels, the priority rankings are not nuanced sufficiently to ensure that the targets are achievable.
- 1.2.4 A proposed revised priority table, with additional targets and priorities, is also included in the attached Enforcement Plan. This includes the existing target for a site inspection to be undertaken and a target for acknowledgement (see 1.3.4 below).

1.3 Planning Enforcement Plan – Communication

- 1.3.1 The nature of Planning Enforcement investigations, where there are often ongoing legal processes involved that mean information has to remain confidential, can result in communicating with stakeholders in a way that meets their expectations

becoming challenging. It is therefore essential that the service is clear from the outset of any engagement about what updates will be feasible and legally permissible.

- 1.3.2 The Planning Enforcement email inbox, which is a key source of case reports, has an auto response on it to acknowledge receipt of the email. It is proposed that this is updated to better manage expectations and to include a link to the Planning Enforcement Plan as well as an explanation that not every email will be individually acknowledged. This message will reflect information provided on the Council's website and is designed to manage expectations about the Planning Enforcement process.
- 1.3.3 At present, those reporting a breach who are not borough Members receive an acknowledgement letter stating that the matter they have raised is to be investigated and directing them to the Planning Enforcement Plan for further information. They also receive an update at case closure to inform them of the final outcome. Both of these are issued automatically via email where that information has been provided, or by post. In addition to this, case officers informally update stakeholders where possible throughout the progress of a case, however this is not applied consistently due to the varying nature of cases and the high caseloads officers currently carry. It is the intention therefore that additional automated updates are implemented as part of the move to the new Agile system. This will mean that from April 2023, where it is legally permissible to provide an update at key stages of an investigation such as when a retrospective planning application is submitted, or enforcement action has been taken (not specifying the type of action), these will also be automatically sent to those listed on the case file as 'interested parties'.
- 1.3.4 In addition to this, the Enforcement Plan currently states that we will let those who raise an issue know what priority the case has been given and who is investigating it. However, this information is not currently provided as part of the acknowledgement letter. It is therefore proposed that the current template be amended and that an acknowledgement target is set accordingly. This will ensure that the customer who raises the issue will be informed of the priority of the case and the case officer at the same time and within two days of the issues being raised with the Council. This will require a change of process and it is therefore proposed that this is implemented ahead of the Agile template changes or in tandem with them to take effect at the earliest opportunity. In addition to this, the acknowledgement letter will explain that follow up communication from stakeholders will not always be individually acknowledged, for example where it is a follow up report on the same or similar potential breach. The auto response email from the Planning Enforcement inbox will serve as confirmation that the information has been received, however it is considered that manual acknowledgement of this type of message is not an efficient use of officer time, especially when the additional automated notifications are introduced.

- 1.3.5 Members currently receive a weekly list of opened and closed enforcement cases, which contain confidential information that is not to be shared more widely. Although these are considered a useful snapshot tool across the borough, officers routinely receive Member queries about ongoing cases that these lists do not enable. The Head of Planning, working closely with IT, has therefore developed a Planning Enforcement Tracker tool for Members. Prior to this meeting, all Members have been sent a link to that tool, which is designed to ensure that Members can access real time information about updates on cases. Officers have commenced a revised working practice that sees them update case files on a more regular basis, which generates the case updates shown in the tracker. A further overview demonstration of the tracker will be presented as part of this report and Members are encouraged to raise any queries about its use with the Head of Planning to ensure that best use is made of this tool.
- 1.3.6 The next stage of developing the approaches mentioned above will be to enable full mobile working capabilities for enforcement case officers, whereby they are able to use portable devices on site (where it is safe to do so) to complete case updates and record findings. This will enable site visits to be carried out more efficiently and for decisions on cases to be completed or closed down more quickly. As the new Agile system will be implemented by April 2023, it is proposed that mobile working capability be introduced alongside this.
- 1.3.7 At present, the Planning Enforcement Plan does not have a separate section relating to Member communication. In the draft appended to this report, the insertion of a section is proposed, both to ensure that Members are clear on what has been agreed to but also to ensure that stakeholders more widely understand that some information can only be shared with Members and not with other interested parties.

1.4 Resourcing the Planning Enforcement Function

- 1.4.1 The proposed changes to the Planning Enforcement Plan, the digital improvements detailed in this report and the number of cases received each year and live cases in the system provide a revised basis for considering staffing requirements in the Planning Enforcement team. There is also a need to consider what work is considered to be required and core to the function.
- 1.4.2 Outside the core work of the team in reviewing and enforcing Planning breaches, the officers also play a lead role, in close collaboration with Legal Services, on short term unauthorised traveller encampments (longer term unauthorised encampments are considered part of the core work of the team) on Council, Parish/Town Council and Leisure Trust Land. At present, this activity is charged at a flat rate per incursion of £400 or £600 should the case go to court. Having carried out an assessment of the time spent by both Planning Enforcement and Legal officers, it is considered that based on the average time spent, cost recovery for this work would sit at around £1,400 (should the case go to court). Therefore, at present, the Council is making a considerable loss every time this

activity is undertaken. This is in addition to the fact that several of the activities for Planning Enforcement Officers need to be undertaken by two team members for safety reasons and therefore this is a considerable drain on team capacity.

- 1.4.3 On the assumption that Members wish us to continue to offer this service to Parishes and Leisure Trust (which not all Councils do), we need to seek cost recovery and accept that in the months when this activity is most prevalent, officer time will potentially be limited on other enforcement activity.
- 1.4.4 At present, the Development Manager is the only senior manager overseeing the Planning Enforcement function and all case endorsement sits with that role. Given the wider range of requirements that role has, this is not an effective or efficient use of their time and may well result in delays to enforcement cases being concluded. As Members may be aware, a new permanent incumbent will start in the Development Manager role in October 2022, and it is considered important to ensure that they are able to provide oversight of their functions rather than needing to provide operational management. Moreover, as per the recent confidential report to the General Purposes committee, operational management arrangements have been introduced or amended across other Development Management functions both to empower officers and to make processes more efficient, so there is an argument that not to do so in Planning Enforcement would leave this function out of line with the rest of the service and could create a potential drain on management resource as a result.
- 1.4.5 The Head of Planning has been carrying out successful backlog exercises with both the Development Management and Planning Technical teams over the past few months. It is proposed that in order to support the implementation of the revised processes identified in this report, the agency member of staff who is currently filling a Planning Enforcement Officer role (to maintain capacity during a period following the departure of a permanent member of staff and prior to this reporting cycle) be retained until end of the financial year (in line with Agile implementation) in any staffing option, in order to work on case backlogs and provide transitional capacity. This decision to continue this fixed term resource is delegated to Chief Officers and as such has been approved by Management Team.
- 1.4.6 Given all of the matters laid out in this report, it is considered necessary to review the staffing structure in the Planning Enforcement Team. Four options are laid out below for Members' consideration.
- 1.4.7 *Do nothing scenario* – at present, the team structure is as shown at **Annexe two**. Although there is a senior officer, this role is not graded at such a level as to have significant management responsibility and is rather a role for a very experienced enforcement officer to manage complex cases. At present however, due to the fact that this planning function has no interim management before reaching the Development Manager (as outlined above at 1.4.4), this officer is currently operating in a quasi- managerial role, which removes capacity from enforcement

activity. Given caseloads and management structure, it is considered that should the digital changes outlined above (Agile implementation and Enforcement Tracker) be implemented but there is no change to the existing structure, it is unlikely that improvements to timescales for investigations and follow up activity will be significantly improved, as the current cohort of officers will continue to have to manage all aspects, albeit that Members and stakeholders will be kept better informed and this may see some reduction in administrative activity to manage stakeholder engagement. It will also mean that implementation of the revised approach to prioritisation proposed in this report is likely to take longer due to the need for officers to complete the backlog exercise and to maintain incoming case timescales.

- 1.4.8 Optimised growth scenario – **Annexe three** shows the proposed structure. This option assumes the digital changes and efficiencies created by the introduction of Agile outlined above are implemented and that 3 roles are maintained within the team but that one of the Planning Enforcement Officer roles is changed to a Principal Planning Enforcement Officer at M8. This role would manage case allocation, decision sign off and complex multi-agency cases as well as taking line management responsibility for the Senior Planning Enforcement Officer and Planning Enforcement Officer roles. The role would also have responsibility for formal enforcement action sign off on specified cases. This would mean that those two posts would be able to focus solely on inspections and casework (including short term unauthorised traveller encampments) and would in time have digital working capability to streamline their processes and reduce case timescales. It would also be part of this new role to review the protocols that sit alongside the Planning Enforcement Plan and liaise with colleagues in Legal, as well as the Landscape Officer (in relation to Tree Protection). This is still considered to be a lean structure given the case levels in the team; however, it provides a more graduated management structure and allows case officers to focus on that aspect of the enforcement process more fully, whilst taking account of the Council's wider financial challenges. Details of the financial implications of the options are detailed at 1.6 below.
- 1.4.9 Full resourcing scenario – given the importance that Members understandably place on Planning Enforcement, officers have also considered an option which augments the current structure rather than amending it. In this proposal, the Principal Enforcement Officer role at M8 would be in addition to the existing 3 roles and would provide ongoing resilience and capacity to both manage the team but also resolve more cases more quickly. It should be noted however that this results in significant growth on base budget.
- 1.4.10 Hybrid proposal scenario – although more challenging to recruit to, as the team currently has a permanent vacancy (staffed by an agency member of staff at present, as above) at Planning Enforcement Officer level, a hybrid proposal would be to implement the Optimised Growth structure permanently, with a two-year fixed term role at Planning Enforcement Officer level to provide some additional short-medium term capacity whilst new ways of working are embedded. This

would also allow the new incumbent in the Development Manager post sufficient time to implement any further service efficiencies that they identify.

1.5 Legal Implications

- 1.5.1 Having an effective Planning Enforcement Plan in place ensures that there is a framework for prioritisation and decision making that reduces the risk of the Council's decisions being subject to successful legal challenge. It is also considered to be best practice to have such a plan in place.
- 1.5.2 Planning enforcement work is discretionary and there are no statutory provisions *requiring* the Council to undertake such work. However, as set out in the NPPF, effective planning enforcement is important to maintain public confidence in the planning system. Insufficient or ineffective enforcement could lead to long term harm to the amenity of the Council's area, a lack of trust in the planning system and an inability for the Council properly to administer effective planning control.

1.6 Financial and Value for Money Considerations

- 1.6.1 The cost of the optimised growth option is £24,913 growth on the Council's base budget.
- 1.6.2 The cost of the full resource option is £62,165 growth on the Council's base budget.
- 1.6.3 The cost of a fixed term two-year Planning Enforcement Officer post is £37,252 per annum. Should O&S endorse this approach alongside the optimised growth option, then Management Team have agreed this fixed term post in principle.
- 1.6.4 At present, no offset savings are identified to mitigate the potential growth. As per the recent report to Members on staffing resource in the Planning Service more widely, service efficiency will be considered again once the implementation of Agile is completed.
- 1.6.5 It is essential for the Council's overall financial viability that where services are provided, costs are recovered. As such, it is proposed that the fee for enforcement work relating to traveller incursions on Parish or Leisure Trust land is increased to £950 for initial action, increasing to £1,400 where the case is taken to court.

1.7 Risk Assessment

- 1.7.1 Stakeholder expectations are not met - reputational risk which undermines the confidence in the planning system.
- 1.7.2 Breaches rise due to Council's inability to efficiently enforce due to workload and resourcing issues.

- 1.7.3 Recruitment to new post/s takes longer than expected due to market forces and necessitates employing a consultant for a longer period with consequential impact on rising caseloads and costs.
- 1.7.4 Potential delays in having a new structure agreed due to internal governance and associated impact on case load and priorities.
- 1.7.5 Future changes are not effectively implemented due to a lack of resources
- 1.7.6 Agreement is not reached on increased fees for dealing with short term encampments which means that costs recovery is not achieved and diverts resources away from other priorities.
- 1.7.7 Potential misalignment with other recent changes agreed by General Purposes Committee for other Development Management functions to empower officers and to make processes more efficient which could have the effect of de-motivating team members in the enforcement team.
- 1.7.8 Risks associated with backlogs in the court system which could delay taking action to remove short term unauthorised traveller encampments and consequential impacts on the Council's reputation for taking decisive action.

1.8 Equality Impact Assessment

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

1.9 Policy Considerations

- 1.9.1 Business Continuity/Resilience
- 1.9.2 Human Resources

1.10 Recommendations

The Overview & Scrutiny Committee is asked to;

- 1.10.1 CONSIDER the proposed changes to the Planning Enforcement Plan and the associated activity and timescales, as laid out in section 1.2 and 1.3 of this report and RECOMMEND to Cabinet that these changes be agreed for implementation.
- 1.10.2 CONSIDER the resourcing options laid out at Section 1.4, to be read alongside the financial considerations at section 1.6 and the risk assessment at section 1.7 and AGREE an option to propose to General Purposes Committee.
- 1.10.3 RECOMMEND the increase in the fees charged for activity relating to traveller incursions on Parish or Town Council or Leisure Trust land laid out in Section 1.4 to be read alongside the financial considerations at section 1.6 and the risk

assessment at section 1.7, for consideration by Council as part of the budget setting process.

Background papers:

Annexe 1 – Revised and updated Enforcement Plan

Annexe 2 – Current team structure

Annexe 3 - Proposed structure options

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Annexe One – Planning Enforcement Plan

Tonbridge and Malling Borough Council

Planning Enforcement Plan

Planning Enforcement plan

Contents:

PART 1: BACKGROUND CONTEXT

- 1 Introduction and Context
- 2 The Scope of Planning Enforcement
- 3 The general approach to Enforcement - guiding principles

PART 2: HOW WE DEAL WITH ALLEGED BREACHES OF PLANNING CONTROL

- 4 How we prioritise cases
- 5 How we Investigate alleged breaches
- 6 What we do if a breach is identified

PART 3: INVOLVEMENT IN THE PROCESS

- 7 Advising the Council of possible breaches
- 8 Communication with Members
- 9 Communication with stakeholders
- 10 Parish and Town Council involvement

PART 4: MANAGING PLANNING ENFORCEMENT

- 11 Scheme of delegation

PART 1: BACKGROUND CONTEXT

A breach of planning control is defined in Section 171A of the Town and Country Planning Act 1990 as: the carrying out of development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted.

1. Introduction and Context:

- 1.1 This document sets out the approach the Council will take in relation to breaches of planning control in the Borough. Where breaches take place planning law lays down strict requirements which must be followed before the Council can enforce against them. These requirements seek to balance the concerns of local people and the rights of owners against the need to secure proper planning control in the borough.
- 1.2 The Council understands that breaches of planning control impact on peoples' lives. Consequently, the delivery of effective planning enforcement is an important issue.
- 1.3 With this in mind, this Plan sets out how the Council's planning enforcement service will seek to address breaches of planning control and prioritise its work. It describes the range of powers available to the Council, how the Council will decide whether or not to pursue enforcement action and the process of enforcement.
- 1.4 The Council's objectives in producing a Planning Enforcement Plan are consistent with the National Planning Policy Framework 2021 (NPPF). The Framework states:

"Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

- 1.5 Planning enforcement covers the areas of planning permission, advertisement consent, listed building consent, and conservation area consent and tree preservation orders. National legislation allows some minor

and small-scale works to be undertaken without the need for any further consent or approval. These works are known as "permitted development". Any works carried out as permitted development cannot be subject to enforcement action.

- 1.6 This Plan is in accordance with the objectives and approaches contained within the Council's [Corporate Enforcement Policy](#) and should be read in conjunction with that document.
- 1.7 In dealing with any enforcement issues the Council must take into account the Council's adopted frameworks and strategies as well as the guidance contained within the National Planning Policy Framework (NPPF) and the associated Planning Practice Guidance (PPG).

2. Scope of Planning Enforcement:

There are two key principles which underpin the planning enforcement system:

A breach of planning control is not a criminal offence, except for unauthorised works to listed buildings, illegal advertisements, demolition without consent and unauthorised works to trees with Tree Preservation Orders or within Conservation Areas.

Other than in these cases, a criminal offence only arises when an Enforcement Notice or other formal notice has been served and has not been complied with upon the expiry of a specified time limit.

- 2.1 There is a common misconception that breaches of planning control are a criminal offence and should automatically attract formal enforcement action. In fact, enforcement action is a discretionary power. It is for each local planning authority to decide the amount of resource to put into enforcement, how to determine when action is necessary and the type of action that is appropriate. In making these decisions the authority should be mindful of maintaining public confidence in the planning system but it should be recognised that in the majority of cases, formal enforcement action should be seen as a last resort.

It is at the Council's discretion whether action will be taken - any action proposed must be proportionate to the alleged breach and be in the public interest.

- 2.2 In investigating alleged breaches of planning control formally reported to it, the Council will make a reasoned decision whether the alleged breach merits further action. However, formal enforcement action will only be taken where it is fair and reasonable to do so. In making this judgement, we will assess all of the circumstances of the case and make reference to our adopted planning

policies. In addition we must also consider central government enforcement policy and guidance which is currently set out in the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) which specifically references when Authorities should take enforcement action.

- 2.3 Importantly, the NPPF sets out that 'local planning authorities should act proportionately in responding to suspected breaches of planning control'.

Formal enforcement action may only be taken in cases where:

- (i) there is a breach of planning control and
- (ii) it is expedient to take such action.

What does expedient mean?

In general terms, this means where an unauthorised development is causing serious harm, rather than it being a minor or technical breach of planning control.

The matter of "expediency" covers a range of matters upon which a judgement needs to be based, a key issue is whether the breach would unacceptably affect public amenity or use of land that should be protected in the public interest.

Any enforcement action should be proportionate to the breach, so for example, it would be inappropriate to take formal action against a trivial or technical breach.

There will be cases where there is a breach of planning legislation, but the breach or harm is so minor that action cannot be justified i.e. it is not expedient or in the public interest to pursue the case.

- 2.4 Examples of harm resulting from a breach of planning control could concern:

- Harm to amenity
- Highway safety issues for example danger from increased traffic flows
- Noise nuisance
- Loss of daylight or privacy

- 2.5 This is not an exhaustive list of 'harm' but indicates that there must be recognisable planning harm.

- 2.6 Such harm would not include, for example:

- Loss of value to a neighbouring property
- Competition to another business
- An extension to a building that is slightly larger than permitted development rights allow but does not create any comparative harm
- Private rights to a view

2.7 As such, the planning enforcement team will not investigate the following:

- Neighbour disputes or other civil issues including boundary disputes or enforcement of covenants. In these matters, complainants need to contact their solicitor or local Citizens Advice office
- The use of or development on adopted highways, pavements or highway grass verges. These matters should be addressed to Kent County Council as the Highways Authority
- Dangerous structures. These matters should be addressed to the Council's Building Control team
- Fly-tipping, litter and fly posting. These should be addressed to the Council's Waste and Street Scene Service.

3. The general approach to Enforcement - guiding principles:

3.1 Government guidance on enforcement focuses not just on the impact of any breach on the complainant but on the rights of the owner or occupier where the alleged breach is occurring. With this in mind, the Council is committed to acting in a fair and consistent manner and has adopted this enforcement plan as part of this commitment. When exercising its enforcement functions the Council will act in a way that is:

- Consistent and fair

We will look at past cases and try to take a similar approach, for consistency, where this seems fair and reasonable. Cases will be investigated in accordance with the priorities set out within the plan.

- Transparent and accountable

Members, residents, existing and potential local businesses, complainants, alleged offenders and council staff should understand how we provide the service and the principles that guide it. We will provide an easy-to-access service, where the procedures, level of service provided and the rights of appeal for the alleged offenders are clearly explained and easy to understand.

- Proportionate and targeted

Any proposed action is in keeping with the scale of the alleged breach and the amount of harm caused. In each case we will decide on the most appropriate course of action to follow. Under the law we are only allowed to take enforcement action if it is expedient to do so having taken into account government guidance, our own development plan policies and the specific circumstances of the case.

PART 2: HOW WE DEAL WITH ALLEGED BREACHES OF PLANNING CONTROL

4. How we prioritise cases

- 4.1 When the Enforcement Team receives an allegation that a breach of planning control may be occurring, the case will be assigned by a senior officer to a member of the Enforcement Team. An initial assessment of the nature of the breach is then carried out and the case is categorised according to what level of priority it should be accorded.
- 4.2 All allegations of planning control breaches will be prioritised and investigated thoroughly and accurately. Below are the priorities we have assigned to different types of alleged breaches, and the target times we have set to carry out an initial site visit and send an acknowledgement to the complainant.

PLEASE BE AWARE: These are target timescales for the undertaking of an initial site inspection and will be adhered to as far as reasonably practicable in the prevailing circumstances. Following the initial inspection, a subsequent investigation will take place the length of which will be dependent on the complexities of the individual case.

Priority ranking	Case characteristics	Targets for 1) Initial site inspection 2) Acknowledgement to the complainant	Comments
Top	1. Work to Listed Buildings. 2. Work to protected trees. 3. Development likely to have a serious impact on health or public safety. 4. Breaches of planning control in respect of development subject to Environmental Impact Assessment	1) 1 working day 2) Within 2 working days	In effect the approach would be as soon as possible to prevent irrevocable damage.

Priority ranking	Case characteristics	Targets for 1) Initial site inspection 2) Acknowledgement to the complainant	Comments
High	<ol style="list-style-type: none"> 1. Development causing significant harm the quality of life of a significant number of local residents. 2. Development with some (less serious or immediately threatening) impact on health or public safety. 3. Development causing potential harm to a Conservation Area or Site of Special Scientific Interest. 4. Development potentially causing significant harm to the landscape. 	<ol style="list-style-type: none"> 1) 5 working days 2) Within 2 working days 	Cases with these characteristics are inevitably themselves subject to assessment and judgement during triage - may require engagement with outside specialist bodies which may have more appropriate powers of control or enforcement (e.g. Environment Agency, Health and Safety Executive)
Medium	<ol style="list-style-type: none"> 1. Development which causes limited harm to individuals and/or local communities. 2. Development other than of a wholly minor nature not falling within any other category. 	<ol style="list-style-type: none"> 1) 10 working days 2) Within 2 working days 	
Other	<p>Minor developments such as sheds, fences. Most advertisements. Other minor breaches of planning conditions. Minor departures from approved plans. Most cases of untidy sites other than those which have particular characteristics which fall within a higher priority</p>	<ol style="list-style-type: none"> 1) 15 working days 2) Within 2 working days 	

4.3 This prioritisation reflects the perceived urgency and level of harm arising to amenity or to areas or features that benefit from special protection.

4.4 At this stage the complainant is informed of the case officer's name and

contact details. The named Officer will act as the main point of contact and will advise all parties on the outcome of the case. It should be noted that due to the confidentiality requirements of some of the legal processes involved in Planning Enforcement cases, detailed updates on, for example, the type of enforcement action being taken, cannot be provided to members of the public.

- 4.5 Additionally, Borough Council Members are informed of the receipt of allegations on a weekly basis.

5. How we investigate alleged breaches

- 5.1 The enforcement case officer will inspect the site within the given timescale to determine if a breach of planning control is occurring. This is an essential part of almost every case to establish the actual circumstances on the ground and will also involve research into the site planning history.
- 5.2 If there is no evidence of a breach occurring at this stage, a brief report is produced by the case officer and passed to a Team Leader/Principle Planning Officer or the Development Manager for endorsement.
- 5.3 Should the first inspection prove inconclusive, the enforcement case officer will contact the site owner requesting a meeting on the site, or request further information as might be necessary, so that further investigations can be undertaken.
- 5.4 Whatever the assessment, the complainant will be informed and advised of the next course of action.

6. What we do if a breach is identified

- 6.1 If a breach of planning control is found an assessment must be made, on a case-by-case basis, as to whether:
- it is or is not appropriate to take any further action at all
 - to proceed to try to resolve the breach informally through negotiation
 - to seek to invite a retrospective planning application; we will only do this if there is some prospect of permission being granted
 - to proceed directly towards formal action such as the service of an enforcement notice.
- 6.2 The assessments are made by the Enforcement Team member, in conjunction with a senior officer, who also endorses any recommendations made.

No formal action

- 6.3 It is not automatically the case that the Local Planning Authority will take any action (whether formal or informal) in the event that a breach is discovered to seek to rectify matters. A judgement must be made in each and every case as to whether any action is expedient. This judgement will involve consideration of the seriousness of the breach, the level and nature of any harm that is being caused, and the proportionality of any contemplated remedial action. If the breach is relatively minor, inconsequential or of a purely technical nature, there will be some instances where no further action is appropriate.

Negotiation:

- 6.4 In some cases, it may be possible to bring about a satisfactory resolution through informal action such as negotiations with those responsible. This may, for example, bring about the cessation of the unlawful activity, or reduce any harmful impacts so that they are within acceptable bounds.
- 6.5 Government guidance makes it clear that in all but the most serious cases we should initially seek to have planning breaches remedied through negotiation. In these events, the person carrying out the breach will be sent a letter confirming that the breach should be remedied in a specific timescale, or information should be provided to justify to us that no further action should be taken.

Retrospective planning applications:

- 6.6 A local planning authority can invite a retrospective application. In circumstances where they consider that an application is the appropriate way forward to regularise the situation, the owner or occupier of the land should be invited to submit their application (Section 73A of the Town and Country Planning Act 1990) without delay.
- 6.7 We will only do this where it is considered that there is a reasonable prospect of permission being granted. The invitation to submit an application is not, however, meant to imply that permission will necessarily be granted. But it does provide a formal process for consideration of the merits of the case including, importantly, public consultation. In many cases where we follow this course of action, we may eventually conclude that it is appropriate to grant permission subject to conditions that exercise control over the most significant and potentially harmful impacts.

When might it be appropriate to serve an Enforcement Notice?

- 6.8 Wherever possible, we will try to resolve harmful activities through informal action or the planning application process. However, where it is felt that the breach is significantly harmful and is unlikely to be rectified by way of the submission of a planning application we will request that the breach is

ceased/remedied within a specified timescale; this is determined on a case-by-case basis and will depend upon the seriousness of the breach and the nature of harm that is being caused. Should the owners fail to meet this request then enforcement action is required.

- 6.9 Enforcement Notices are our main enforcement tool. Government guidance sets out that the power to issue an enforcement notice is discretionary (Section 172 of the Town and Country Planning Act 1990). An enforcement notice should only be issued where we are satisfied that it appears that there has been a breach of planning control and it is expedient to issue a notice, taking into account the provisions of the development plan and any other material considerations.
- 6.10 Enforcement notices are formal legal documents that will require the owner or occupier to take specific steps to remedy the planning breach in a specified time. If the notice is not complied with the planning breach will become a criminal offence which can be prosecuted in the Courts. However, the notice may be appealed to an independent, government- appointed Planning Inspector. In such cases the effect of the Enforcement Notice is suspended whilst the appeal is ongoing. Inspectors can decide to uphold the notice, amend it or have it quashed.
- 6.11 Alternatively, if the breach consists of a breach of conditions on an existing permission, a Breach of Conditions Notice can be issued. In this case, a continuing breach could lead to prosecution in the Magistrates' Court. There is no right of appeal against a Breach of Condition Notice.
- 6.12 Where a planning application is invited but none is submitted within a reasonable period, consideration is given to taking further action. Where formal action is contemplated, we will take legal advice before commencing such action.
- 6.13 In addition, the Council will, in exercising its duties under Regulation 35 of the Environmental Impact Assessment Regulations 2017, have particular regard to any breaches which have implications for features of developments intended to avoid, prevent, reduce or offset significant adverse effects on the environment that have been approved within the context of an Environmental Statement.

Other possible types of formal action:

- Planning Contravention Notice (PCN)
- 6.14 This is a legal notice which allows us to bring the breach to the attention of the owner or occupier and requires the alleged offender to provide certain information. A planning contravention notice may be issued under Section 171C of the Town and Country Planning Act 1990 and can be used to do the following:

- a) allow us to require any information for enforcement purposes about any operations being carried out, any use of or activities being carried out on the land
 - b) can be used to invite its recipient to respond constructively to us about how any suspected breach of planning control may be satisfactorily remedied
- 6.15 The issuing of a PCN is discretionary. We need not serve one before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action.
- 6.16 It is a criminal offence to give false or misleading information in response to a PCN and in the event the Council becomes aware of such an occurrence consideration will be given as to whether prosecution of the offence would be in the public interest.
- Section 215 notices
- 6.17 A Local Planning Authority has the power to issue a notice under s215 if the amenity of part of its area is adversely affected by the condition of a piece of land. The notice requires such steps as may be specified for remedying the condition of the land (includes buildings) and provides a minimum of 28 days before it takes effect. There is no right of appeal to a planning inspector, although before the notice takes effect an appeal may be made to the Magistrates Court by those served with the notice or any other person having an interest in the land. The Council will consider serving such a notice where clear and demonstrable harm is arising to public amenity as a direct result of the condition of a piece of land.
- Stop Notices, Temporary Stop Notices and Court Injunctions
- 6.18 These can be used to bring a quick stop to development where a breach is causing serious or irreparable harm and immediate action is justified. They will therefore generally only be used in the most serious cases. The use of injunctions will be considered in appropriate cases, such as where a listed building is undergoing alterations without consent that affects its special historic and architectural interest or where the Council has evidence that a site will be developed without planning permission and in doing so will cause serious harm to particular planning interests.
- Prosecution
- 6.19 In most cases the Council cannot prosecute until we have taken formal enforcement action through the service of a formal notice, such as an Enforcement Notice or Breach of Conditions Notice, and any period specified in that notice has expired.

Prosecution does not bring about the remedying of a breach; rather it can be

seen as the Courts "punishing" the person responsible, usually through a fine. Even though a successful prosecution may not remedy a planning breach on its own it can have an important deterrent effect.

We will not take a prosecution forward without first taking legal advice. As part of that advice, an assessment will be made as to whether there is sufficient evidence to take a prosecution forward and whether it is, in all the circumstances, in the public interest to take a prosecution, in accordance with the Code for Crown Prosecutors.

- Additional prosecutions in response to ongoing non-compliance

Further to prosecution action as set out above, the breach of a notice may continue. In such circumstances, the Council will consider whether further prosecutions are appropriate and in the public interest in addition to the following possible courses of action.

- Proceeds of Crime Act 2002 (POCA)

Confiscation orders under the Proceeds of Crime Act 2002 (POCA) provides power to local authorities to obtain confiscation orders against people who commit planning crimes, to deprive them of the financial benefit they have gained as a result of committing planning crimes.

With a few exceptions, breaching planning control is generally not a criminal offence, but such activities can become criminal where they continue to occur in breach of a valid, effective enforcement notice.

Obtaining a confiscation order under POCA in these circumstances punishes the offender by forfeiting the profits attributable to the planning breaches, and in such circumstances the local authority receives a share of those profits. Using careful judgement and thorough investigation, local authorities can use this tool to target known repeat offenders, creating a real deterrent against breaches of planning law, while at the same time recovering sums to cover costs of any necessary remedial action.

In considering cases of ongoing breaches of effective enforcement notices, the Council will consider whether such action is appropriate and proportionate.

- Injunctions

The Council will, when it is considered to be expedient for any actual or apprehended breach of planning control to be restrained, apply to the High Court or County Court for an injunction to restrain a breach of planning control (section 187B of the Town and Country Planning Act 1990).

- Direct Action

The Council has the power in certain circumstances to make sure an enforcement notice is complied with by carrying out the required steps directly. It can also make the decision to take direct action to remedy a breach of planning control rather than serve a formal notice in the first instance.

In such circumstances, the Council can recover all the costs incurred from the owner. Deciding whether or not to pursue direct action will only be done following a detailed review all the relevant circumstances of an individual case and the balancing of all determinative factors. Such action will only be taken if the Council is confident that it is proportionate and necessary to do so.

Out of Hours

There is rarely an opportunity or a justification for action to be taken out of hours whilst balancing all the relevant elements including European Convention on Human Rights (ECHR) considerations, and as such the Council does not operate an out of hours planning enforcement service.

PART 3 – INVOLVEMENT IN THE PROCESS

7. Advising the Council of possible breaches:

- 7.1 Reports of possible breaches of planning control should, whenever possible, be made in writing. This enables the Council to have a written record of the need for initiating investigation and possible action. Reports of suspected breaches can be made by:
- Completing an [online enforcement investigations form](#) which can be found on the Council's website
 - Emailing planning.enforcement@tmhc.gov.uk or
 - Sending a letter to the Planning Enforcement Team at the Council's Kings Hill offices
- 7.2 When this is not possible reports should be made in person, for example, by telephone to enable Council officers to make a detailed written record.
- 7.3 Anonymous reports will not be investigated unless they concern a statutory listed building or a protected tree.
- 7.4 Vexatious or repeated complaints will not be investigated. The Development Manager will determine these on a case by case basis.
- 7.5 No personal data relating to those making complaints will be shared with any party involved in the alleged breach.
- 7.6 In the event that a request is made to the Council under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004,

personal information of individual complainants will not be disclosed in accordance with the principles of relevant data protection law.

7.7 If we have been informed that you may be responsible for a planning breach we will:

- provide identification whenever we visit
- provide the name of the officer carrying out the investigation
- investigate the complaint thoroughly before making any decision on what action to take
- write to you explaining our conclusions
- explain what you need to do to put matters right, how long you have to do this and what the consequences might be if this does not happen
- inform you if we decide to issue an Enforcement Notice, intend to take any direct action or start legal action

7.8 If you feel that there has been an error in the way in which an enforcement investigation is being carried out, or you are dissatisfied with the outcome of the Council's investigations, you should use the Council's formal complaints procedure which can be found on the Council's website at [Make a complaint – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/make-a-complaint)

8. Communication with Members

8.1 Borough Council Members are informed of the receipt of allegations of breaches of planning on a weekly basis and are also informed of all cases that are closed.

8.2 Due to the confidentiality requirements of some of the legal processes involved in Planning Enforcement cases, detailed updates on, for example, the type of enforcement action being taken, cannot be provided to members of the public. However due to the nature of member involvement in operational matters, certain categories of information relating to the type of enforcement action being taken can be provided to Borough Councillors.

8.3 In addition to this Borough Councillors have access to a digital Enforcement Tracker which enable them to access real time information on enforcement complaints.

9. Communication with Stakeholders

9.1 If any stakeholder (a member of the public, a Parish or Town Council or a borough Councillor) draw our attention to a possible planning enforcement issue we will:

- not consider anonymous enquiries or vexatious or repeated complaints
- write to acknowledge your complaint within the prescribed time period
- write to let you know the priority it has been given and who is investigating it
- contact you if we need further information

- keep you informed on progress at key stages of our investigation
- let you know the final outcome of your complaint
- treat your complaint confidentially

10. Parish and Town Council involvement

10.1 In addition to this, if you are a Parish or Town Council:

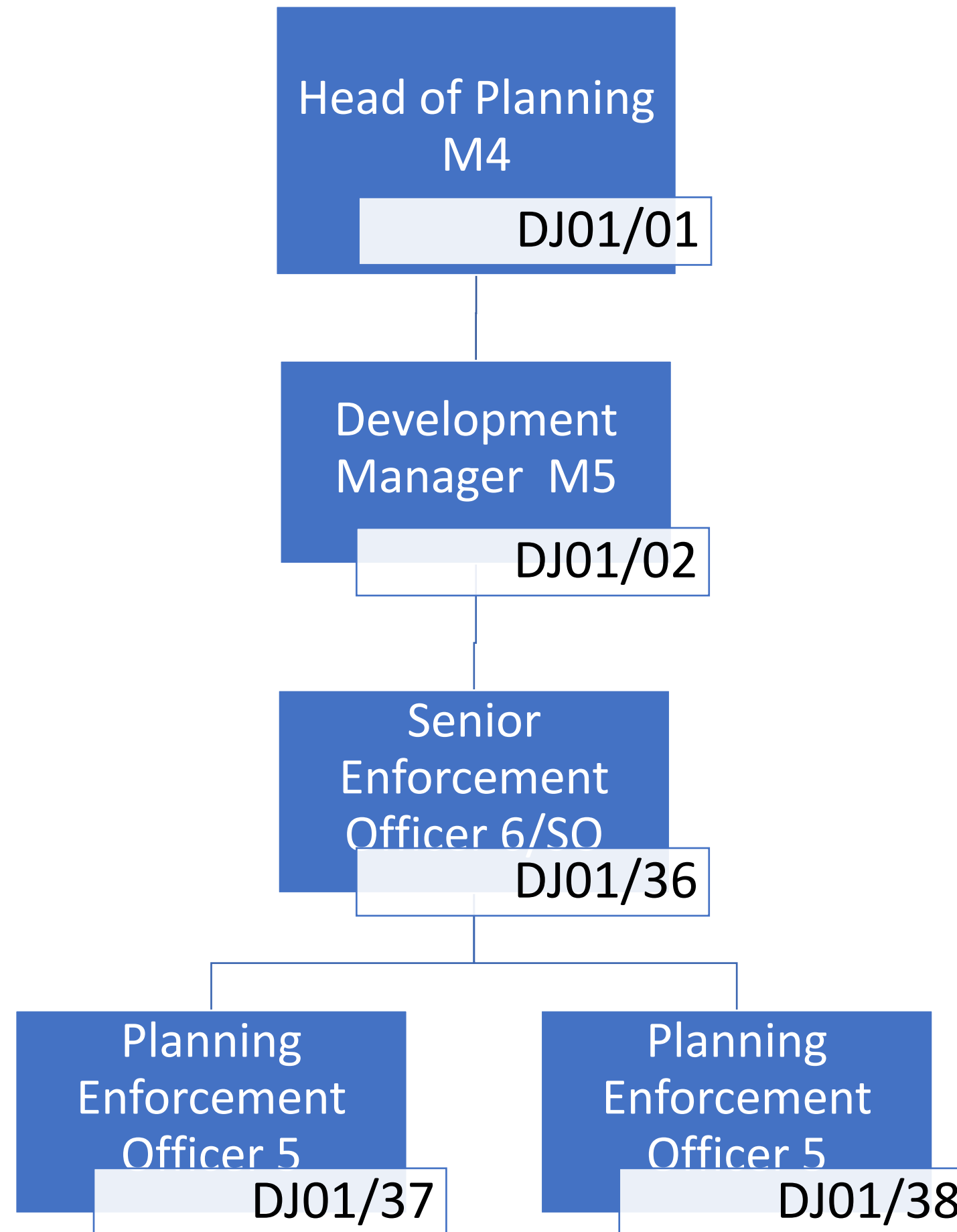
The Council recognises that parish and town council members have an important role to play in this process. Town and Parish Councils have a great deal of local knowledge and awareness of what is happening in their areas. Town and parish councils can inform the planning enforcement process and as such the Council encourages them to engage with officers over planning enforcement issues, on the understanding that decisions on whether or not to take enforcement action are governed largely by the law and clearly defined material planning considerations and as a result cannot be unduly influenced only by local perception.

PART 4 MANAGING PLANNING ENFORCEMENT

11. Scheme of delegation

- 11.1 The Director of Planning, Housing and Environmental Health has delegated authority to issue all planning enforcement notices.
- 11.2 The responsibility for endorsing decisions will sit with the relevant Team Leader or Service Manager in Planning Services (the Team Leader will not endorse their own decisions) and will be escalated to the Head of Planning or Director of PHEH as necessary.
- 11.3 The decision as to whether criminal, or other legal proceedings should be brought, is delegated to the Director of Central Services. In addition, there is standing authorisation from the Director of Central Services to the Head of Legal and Democratic Services to make such decisions.

Annex 2 - Enforcement Team Existing Structure - September 2022



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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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TONBRIDGE & MALLING BOROUGH COUNCIL

COUNCIL

25 October 2022

Report of the Director of Finance and Transformation

Part 1- Public

Matters For Information

1 KENT BUSINESS RATES POOL

This report informs Members of an urgent decision, D220009URG, dated 3 October 2022 taken as a departure from the Council's adopted Budget and Policy Framework and in accordance with paragraph 4 of the Budget and Policy Framework Procedure Rules.

1.1 Business Rates Pool - Background

- 1.1.1 Under the national business rates retention scheme, local authorities are able to come together, on a voluntary basis, to pool their business rates, giving them scope to generate additional growth through collaborative effort and to smooth the impact of volatility in rates income across a wider economic area.
- 1.1.2 A core principle of pooling is that it is voluntary and local authorities establish a pool if pooling is a benefit to them. There is both risk and reward with pooling. Reward in that, if additional rates income achieved is above the baseline set for a local authority, there is the potential (dependent upon the pool composition) to pay a lower levy(or even no levy) on the additional income to central government. However, the risk is that if the income achieved is less than baseline, the pool itself becomes responsible for managing the impact of that loss of income and there is no recourse to national government.
- 1.1.3 TMBC initially entered a Kent Pool, but in 2015 the largest ratepayer in the borough – Aylesford Newsprint – went into administration and consequently TMBC fell below baseline and therefore went into what is known as “safety net”. Since then, we have seen a steady recovery in business rates within TMBC and are now at the point of being on or around our baseline. Nevertheless, in collaboration with other partners we exited the Kent pool as TMBC's membership was not in Kent's interests.
- 1.1.4 The emergence of Panattoni Park on the former Newsprint site is, however, now significantly changing this picture. TMBC has the potential to achieve business rates income well above its current baseline. However, because it is not in the Kent Pool, 50% of the additional income would need to be shared with central government in the form of a levy.

- 1.1.5 If TMBC were to be able to re-join the pool, it would have the opportunity to keep a greater proportion of that income, as well as establish a “growth fund” with Kent County Council which could be spent in our area (in agreement with KCC).
- 1.1.6 Therefore, there is significant advantage in re-joining the pool. The decision about whether TMBC could re-join is a collective one; and would be informed by the Pool assessing the income each partner could bring for the benefit of Kent as a whole.
- 1.1.7 Each year, DLUHC invites authorities to put forward proposals for pools. This could be rolling over an existing pool, terminating a pool and simply not resubmitting; or putting forward proposals to change the composition of an existing pool. In the case of the latter, effectively an existing pool is revoked and a new one is proposed.
- 1.1.8 A “bid” was made for TMBC to re-join the Kent pool with effect from 1 April 2023. After assessing the position, the partners have agreed to make a proposal to the Secretary of State to revoke the existing Kent Pool and submit a new proposal including TMBC. The other Pool partners are:
- Kent County Council
 - Kent & Medway Fire & Rescue
 - Ashford
 - Dartford
 - Folkestone & Hythe
 - Gravesham
 - Maidstone
 - Swale
 - Thanet
 - Tunbridge Wells
- 1.1.9 The submission had to be made to the Secretary of State by no later than 7 October 2022 and this was done by the Pool Administering Authority, Maidstone Borough Council on 6 October. We now await a response from the Secretary of State.
- 1.2 Panattoni Park**
- 1.2.1 Panattoni Park is due be occupied within the next 12 to 18 months.

- 1.2.2 Based on the information gleaned from other Business Parks owned by the Company elsewhere in the country, we believe the rateable value of the entire site could be between £6m and £13m with a mid-range estimate of £9m. Based upon the current rate in the £ on RV of around 50p, this equates to increased business rates income of between £3m to £6.5m and a mid-range of £4.5m.

2023/24 Potential Income

- 1.2.3 Whilst it is impossible to predict exactly when occupation will occur, we have assumed for the purposes of our own projections and estimates that several properties will commence occupation during 2023/24.
- 1.2.4 This would result in a low to mid-range estimate of TMBC being above its baseline by between £700k to £900k. This would deliver retained income of between £350k to £450k were we not re-admitted to the pool, compared to £560k and £720k including the growth fund element (which is spent in collaboration with KCC) were we to be re-admitted to the pool. The benefit of being in the pool is therefore an additional benefit of somewhere between £210k to £270k for the borough.

2024/25 Potential Income

- 1.2.5 By April 2024 the Park is expected to be fully occupied.
- 1.2.6 Using the low to mid-range estimates, TMBC would be above its current baseline level by between £1.2m and £1.8m. This would deliver increased business rates income of between £600k and £900k were we not re-admitted to the pool compared to £960k and £1.4m if our re-admittance was approved by the existing Pool Members. As with 2023/24 the Pool figures include the shared growth fund which has to be spent in collaboration with KCC for approved projects. Upper Range Estimates
- 1.2.7 The figures supplied above show our low to mid-range estimates. As Members are aware, the Rateable Values set are out of our control as they are determined by the Valuation Office.
- 1.2.8 When using the Rateable Values for the other Panattoni sites, all of these are located the Midlands and these values could be lower when compared to similar type properties in Kent and the South-East.
- 1.2.9 In the event that the upper range estimate was realised, the Council's business rates income for 2024/25 onwards could be £2.6m above its current baseline, giving retained income of between £1.3m and £2.1m dependent on our pool status.

1.3 Potential Changes to Business Rates

- 1.3.1 There is of course a potential that Central Government makes changes to the Business Rates Retention Scheme which could see adjustments to Business Rates baselines which will in any event be reset for all authorities at yet to be

defined intervals where any additional growth that had occurred in the period since the reset will effectively be “absorbed” into the new baseline other than any growth that might be allowed to be kept indefinitely. Therefore, it is important to remember that this additional income may not remain ‘in perpetuity’ and may therefore be effectively a windfall for a period of time.

- 1.3.2 Nevertheless, in the interests of all taxpayers in the borough, it is important that we maximise the receipts as much as we can, and for as long as we can.

1.4 Legal Implications

- 1.4.1 This is a matter outside of the budget and policy framework and falls to Full Council. However, given the imminent deadline of 7 October, we were unable to convene a meeting of Council in this timeframe. Therefore, I requested that an urgent decision was taken under the Council’s Constitution Part 4, Rules para 4 page 195.

1.5 Financial and Value for Money Considerations

- 1.5.1 The Council will see an increase in income under the pooling regime as explained above until the Government makes changes to the current arrangements.

1.6 Risk Assessment

- 1.6.1 As the rateable values for buildings are set by the Government Valuation Office there is a risk that the Rateable value for the Panettoni Site could vary to a material degree. In preparing the estimates we have assessed the risk by setting a low, mid and high range for the rateable value and the income has been assessed on this basis.
- 1.6.2 Confirmation from the Secretary of State that the pool submission has been approved is awaited.

1.7 Policy Considerations

- 1.7.1 Community

Background papers:

Decision Notice - D220009URG dated 3 October 2022
and associated papers

contact: Sharon Shelton
Paul Worden

Sharon Shelton
Director of Finance and Transformation

TONBRIDGE & MALLING BOROUGH COUNCIL

RECORD OF DECISION TAKEN UNDER URGENCY POWERS

Decision No:	D220009URG
Decision Taken By:	Leader of the Borough Council
Authority under which Decision Taken:	Departure from the Council's adopted Budget and Policy Framework and in accordance with paragraph 4 of the Budget and Policy Framework Procedure Rules
Decision Type:	Executive Key Decision
Date:	30 September 2022

Decision(s) and Reason(s)

BUSINESS RATE POOLING

With the development of Panattoni Park in Aylesford it is predicted that business rates income billed to Business Ratepayers will increase significantly above the Councils current baseline income threshold.

Under the existing arrangement if the Council was outside of the Kent Business Rates Pool (the Pool) 50% of any growth above this level would need to be paid to Central Government. If the Council was in the Pool no funds would be paid to Central Government and the 50% would be shared between ourselves, KCC, a jointly managed 'growth' fund and a safety net provision.

Estimates for income in 2023/24 range from £350k to £450k if we remained outside of the Pool and £560k and £720k if we were readmitted. In 2024/25 when the park is expected to be fully occupied this rises to between £600k and £900k if we remain outside the Pool and £960k and £1.4m if we were readmitted.

Therefore, there is significant advantage to be had in re-joining the pool. The decision about whether TMBC can re-join is a collective one; and would be informed by the Pool assessing the income each partner could bring for the benefit of Kent as a whole.

Each year, DLUHC invites authorities to put forward proposals for pools. This could be rolling over an existing pool, terminating a pool and simply not resubmitting; or putting forward proposals to change the composition of an existing pool. In the case of the latter, effectively an existing pool is revoked and a new one is proposed.

A "bid" was made for TMBC to re-join the Kent pool with effect from 1/4/23 . After assessing the position, the partners have agreed to make a proposal to the Secretary of State to revoke the existing Kent Pool and submit a new proposal including TMBC. The other Pool partners are:

- Kent County Council
- Kent & Medway Fire & Rescue
- Ashford
- Dartford
- Folkestone & Hythe
- Gravesham
- Maidstone
- Swale
- Thanet
- Tunbridge Wells

The submission for 2023/24 must be made by the lead authority, Maidstone Borough Council, to the Secretary of State by no later than 7 October 2022.

The request to rejoin the Pool was agreed at a meeting of the pool members on 30 September 2022, but the decision for the readmission ultimately lies with Members hence the need for the urgent action.

Details of any alternatives considered:

This is a matter outside of the budget and policy framework and falls to Full Council. However, given the imminent deadline of 7 October, we are unable to convene a meeting of Council in this timeframe. Therefore, under the Council's Constitution, I am asking that an urgent decision is taken. Extract from the Constitution (Part 4 Rules para 4 page 195).

Urgent Decisions outside the Budget or Policy Framework:

(a) The Executive or officers discharging executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

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

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

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

Reason(s) why rejected:

N/A
Conflicts of Interest/Dispensations Granted:
N/A
Background Papers (if any):
N/A
RESOLVED: That:
(1) Members agree that Tonbridge and Malling Borough Council rejoin the Kent Business Rates Pool with effect from 2023/24.
Taken in accordance with paragraph 4 of the Budget and Policy Framework Procedure Rules set out in the Constitution and in agreement with the Chairman of the Overview and Scrutiny Committee.

Signed Leader:

M Boughton

Signed Chair of Overview and Scrutiny Committee:

A Oakley

Signed Chief Executive:

J Beilby

Date of publication:

3 October 2022

This decision is urgent and therefore not subject to call-in (in accordance with Overview and Scrutiny Committee Procedure Rule 15 (i) as set out in Part 4 of the Constitution) and may be implemented immediately.

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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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