

TONBRIDGE AND MALLING BOROUGH COUNCIL

CONSTITUTION

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(Cabinet: 6 June 2018)

(NB: Part 4 requires further formatting)

COUNCIL AND COMMITTEE PROCEDURE RULES

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Part 1: Meetings of the Council

1.	Annual Meeting
1.1	In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in April, May or June.
1.2	<p>The annual meeting will:</p> <p>(i) Elect a person to preside if the Mayor is not present;</p> <p>(ii) Elect the Mayor for the ensuing year;</p> <p>(iii) Elect the Deputy Mayor for the ensuing year;</p> <p>(iv) Approve the minutes of the last meeting;</p> <p>(v) Receive any announcements from the Mayor and/or Chief Executive</p> <p>(vi) In an election year, receive the Returning Officers' Certificate of the result of the elections;</p> <p>(vii) In an election year, the Leader shall be elected at the annual meeting following the four yearly elections and this office to be held until the annual meeting following the next round of elections;</p> <p>(viii) Note the composition and appointments to the Executive (Cabinet) by the Leader;</p> <p>(ix) Appoint:</p> <ul style="list-style-type: none"> - An Overview and Scrutiny Committee - Such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions; and - Representatives to outside bodies <p>(x) Appoint the Chairman and Vice-Chairman of each committee and sub-committee;</p> <p>(xi) If considered appropriate, appoint a second Vice-Chairman for any committee or sub-committee;</p> <p>(xii) Agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;</p>

	(xiii)	Confirm the programme of ordinary meetings of the Council for the year; and
	(xiv)	Consider any business set out in the Notice convening the meeting.
1.3		In compliance with the requirements of 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 shall review the size and composition of any of its committees and sub-committees to which these provisions apply at the annual meeting of the Council. In addition, a review shall be conducted at the next ordinary meeting of the Council following the election of a member of the Council at a bye-election or of notification to the Chief Executive of the constitution, change of membership or cessation of a political group.
2.		Ordinary Meetings
2.1		Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:
	(i)	Elect a person to preside if the Mayor and Deputy Mayor are not present;
	(ii)	Approve the minutes of the last meeting;
	(iii)	Receive any declarations of interest from Members;
	(iv)	Receive any announcements from the Mayor, Leader, Members of the Cabinet or the Chief Executive;
	(v)	Receive questions for, and provide answers to, the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
	(vi)	Receive questions from, and provide answers to, a Member of the Council on any matter in relation to which the Council has powers or duties of which affects the Borough;
	(vii)	Deal with any business from the last Council meeting;
	(viii)	Receive and consider reports, minutes and recommendations from the executive and Council's committees and officer reports on matters arising from them and receive questions and answers on any of those reports;
	(ix)	Receive and consider proposals from the executive in relation to the Council's budget and policy framework;

	(x)	Receive and consider reports of the Overview and Scrutiny Committee;
	(xi)	Receive reports about and receive questions and answers on, the business of joint arrangements and external organisations;
	(xii)	Consider motions;
	(xiii)	Consider any other business specified in the summons to the meeting; and
	(xiv)	Authorise the sealing of documents
3.	Extraordinary and Special Meetings	
3.1	The Chief Executive may at any time call Council meetings in addition to ordinary meetings of their own motion and shall do so at the request of the:	
	(i)	Council by resolution;
	(ii)	Mayor;
	(iii)	Leader; or any
	(iv)	Five members of the Council if they signed a requisition presented to the Mayor and they have failed or refused to call a meeting within seven days of the presentation of the requisition.
3.2	An extraordinary meeting may transact any business which the Council may transact at an ordinary meeting (except the approval of minutes of previous meetings) and any business which cannot by law be transacted at the annual meeting or an ordinary meeting. However, no business shall be transacted at any extraordinary meeting unless it is specified in the summons to the meeting.	
3.3	A special meeting may transact only the business specified in section 249 of the Local Government Act 1972, namely:	
	(i)	to confer the title of honorary alderman on persons who have, in the opinion of the council, rendered eminent services to the council as past members of that council, but who are not then members of the council; and
	(ii)	to admit to be honorary freemen of the borough persons of distinction and persons who have, in the opinion of the council, rendered eminent services to the borough
	as specified in the summons to the meeting.	

4.	Rules for Convening Meetings
4.1	Meetings of the Council will normally begin at 1930 hours and will be held at the Council's principal offices at Gibson Building, Gibson Drive, Kings Hill, or otherwise as determined by the Mayor after consultation with the Chief Executive.
4.2	The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
4.3	At least five clear days* before a meeting, the Chief Executive will send a summons to every member of the Council by an appropriate method, in accordance with the provisions of the Local Government Act 1972. This may include electronic summonses. *“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting
4.4	The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.
5.	Rules for the Conduct of Meetings
Chairing the Council	
5.1	The person presiding at the meeting may exercise any power or duty of the Mayor.
Quorum	
5.2	The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.
Unfinished Business	
5.3	If, at the time a meeting is adjourned, there remains unfinished business, the Mayor, after consultation with the Chief Executive, may fix a time and date for the consideration of the remaining business. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.
Questions from Members of the Council	
5.4	A member of the Council may ask the Leader or the Chairman of a committee any question without notice upon an item of the report of the executive or a committee when that item is being received or under consideration by the Council. The Leader or the Chairman of a committee may invite a chief officer to respond to the question on their behalf and the leader may also invite another member of the executive to respond.

5.5	<p>A member of the Council may, upon giving the requisite notice, ask the Mayor, the Leader or the Chairman of a committee a question on any matter in relation to which the Council has powers or duties or which affects the Borough.</p> <p>Notice of the question shall be given to the Chief Executive not later than 1100 hours on the closest working day prior to the day of the meeting. Notice may be given in writing or by electronic mail.</p> <p>The Mayor, the Leader or the chairman of a committee may invite another member of the Council or a chief officer to respond to the question on his/her behalf and the leader may also invite another member of the executive to respond. No discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive or to the appropriate committee. Once seconded, such a motion will be voted on without discussion.</p>								
Questions for Members of the Public									
5.6	A resident of the Borough or the representative of a business or organisation based in the Borough may, upon giving the requisite notice, ask questions of the Council on any matter for which the Council has a responsibility or which affects the Borough.								
5.7	Notice of the question shall be given to the Chief Executive in writing or by electronic mail not less than ten working days before the date of the meeting.								
5.8	<p>The Chief Executive may reject a question if, in their opinion, the question:</p> <table border="1" data-bbox="320 1330 1418 1738"> <tr> <td data-bbox="320 1330 400 1442">(a)</td> <td data-bbox="400 1330 1418 1442">does not relate to a matter for which the Council has a responsibility or which does not affect the Borough;</td> </tr> <tr> <td data-bbox="320 1442 400 1518">(b)</td> <td data-bbox="400 1442 1418 1518">is defamatory, frivolous or offensive;</td> </tr> <tr> <td data-bbox="320 1518 400 1666">(c)</td> <td data-bbox="400 1518 1418 1666">is substantially the same as a question put at a meeting of the Council by a member of the public or by a member of the Council within the past six months; or</td> </tr> <tr> <td data-bbox="320 1666 400 1738">(d)</td> <td data-bbox="400 1666 1418 1738">requires the disclosure of confidential or exempt information.</td> </tr> </table>	(a)	does not relate to a matter for which the Council has a responsibility or which does not affect the Borough;	(b)	is defamatory, frivolous or offensive;	(c)	is substantially the same as a question put at a meeting of the Council by a member of the public or by a member of the Council within the past six months; or	(d)	requires the disclosure of confidential or exempt information.
(a)	does not relate to a matter for which the Council has a responsibility or which does not affect the Borough;								
(b)	is defamatory, frivolous or offensive;								
(c)	is substantially the same as a question put at a meeting of the Council by a member of the public or by a member of the Council within the past six months; or								
(d)	requires the disclosure of confidential or exempt information.								
5.9	At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation. Where more than one question is submitted, the Chief Executive may ask the person or organisation to indicate which question they wish to be answered and, in the absence of such an election, will reject the second and all subsequent questions asked.								

5.10	The Chief Executive will maintain a permanent record of each question, which shall be open to public inspection. Where a question has been rejected, the record will include the reasons for rejection.
5.11	The Mayor, in consultation with the Chief Executive, will determine which member is to be asked to reply to the question. A copy of each question shall be sent to the member by whom it is to be answered. In addition, copies of all questions will be circulated to all members and will be made available to the public attending the meeting.
5.12	At the meeting, questions will be asked in the order notice of them was received, except that the Mayor may group together similar questions. The Mayor will read out each question and invite the member to whom it is to be put to respond.
5.13	An answer may take the form of a direct oral answer or, where the reply cannot be conveniently given orally, a written answer sent later to the sender. Alternatively, where the desired information is in a publication of the Council or other published work, the answer may take the form of a reference to that publication.
5.14	No discussion will take place on any question, but any member may move that a matter raised by a question be referred to the executive or to the appropriate committee. Once seconded, such a motion will be voted on without discussion.
5.15	The maximum time allotted for dealing with questions from members of the public is 30 minutes. Any question which cannot be dealt with during the public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer sent to the questioner as soon as possible after the meeting.
5.16	The Chief Executive will place a copy of the answer given to each question in the book containing the permanent record of the question.
Addresses from Members of the Public	
5.17.1	A resident of the Borough or the representative of a business or organisation based in the Borough may address the Council on any matter for which the Council has a responsibility or which affects the Borough.
5.17.2	A request to address the Council shall be made to the Chief Executive in writing or by electronic mail not less than ten working days before the date of the meeting. To be valid, the request must be accompanied by a written statement stating the nature and objects of the proposed address.

5.17.3	The Chief Executive may reject a request if, in his opinion, the subject matter:	
	(a)	does not relate to a matter for which the Council has a responsibility or which affects the Borough;
	(b)	is defamatory, frivolous or offensive;
	(c)	relates to a personal issue or an individual case;
	(d)	is substantially the same as an address made to the Council within the previous six months;
	(e)	relates to a matter which is to be considered by a regulatory committee of the Council where members of the public are allowed to address that committee.
5.17.4	A maximum of two members of a deputation may address the Council and they may each speak for no longer than five minutes.	
Petitions		
The Borough Council has adopted a scheme for the submission and consideration of Petitions, which is included within this Part of the Constitution.		
5.17.5	A Petition containing more than 1,500 signatures and submitted under the adopted Petition Scheme will be referred to Full Council <u>or Cabinet as appropriate (depending on whether the matter relates to an Executive or Council responsibility)</u> for debate unless it is a petition asking for a Senior Council Officer to give evidence at a public meeting.	
5.17.6	A maximum of two members of a deputation may address the Council/ <u>Cabinet</u> –for no longer than five minutes each. One of these speakers should be the petition organiser. The petition will then be discussed by Councillors for a maximum of 15 minutes.	
5.17.7	Any Member may move that the Council/ <u>Cabinet</u> :	
	(a)	Takes the action the petition requests;
	(b)	Does not take the action the petition requests;
	(c)	Commissions further investigation into the matter(s) raised e.g. by a relevant Committee <u>or Board</u>
	Where the issue raised in the petition is one on which the Cabinet are required to take the final decision, a Member of the Council may only move that recommendations are made to the Cabinet to inform the final decision.	
5.17.8	Where a matter raised in the address or any petition relates to a matter for which some other public authority has a responsibility (whether or not that responsibility is shared with the Council) any member may move that the matter be referred to that other authority and, as part of that motion, the	

	Council may attach a rider setting out the Council's position on the matter.
Announcements by the Leader or a Member of the Executive	
5.17.9	Unless previously authorised by the Council, where, in accordance with rule 2.1(iv), the leader makes any announcements, the following provisions shall apply:
(a)	the total time allowed for making the announcements shall be limited to twenty minutes;
(b)	the opposition group leaders shall be given an opportunity to comment upon the announcements and the total time allowed shall be limited to five minutes;
(c)	the leader shall have the opportunity to respond to any issues raised by the opposition group leaders;
(d)	no further discussion will take place on any announcement, but any member may move that a matter raised in an announcement be referred to the executive or to the appropriate committee for further consideration and, once seconded, such a motion will be voted on without discussion.
5.17.10	Unless previously authorised by the Council, where, in accordance with rule 2.1(iv), a member of the executive makes any announcements, the following provisions shall apply:
(a)	the total time allowed for making the announcements shall be limited to ten minutes;
(b)	the opposition group spokespersons, or the opposition group leaders, shall be given an opportunity to comment upon the announcements and the total time allowed shall be limited to five minutes;
(c)	the member of the executive, or the leader, shall have the opportunity to respond to any issues raised by the opposition members;
(d)	no further discussion will take place on any announcement, but any member may move that a matter raised in an announcement be referred to the executive or to the appropriate committee for further consideration and, once seconded, such a motion will be voted on without discussion.

Motions on Notice	
5.18	Except for motions which can be moved without notice, written notice of every motion, signed by at least one member of the Council, must be delivered in writing or by electronic mail to the Chief Executive not less than ten working days before the date of the meeting.
5.19	Motions must be about matters for which the Council has a responsibility or which affect the Borough. All valid notices of motion will be entered in a book open to public inspection.
5.20	Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving the notice states, in writing, that they propose to move it to a later meeting or withdraw it.
Motions without Notice	
5.21	The following motions may be moved without notice:
	(a) to appoint a chairman of the meeting at which the motion is moved;
	(b) in relation to the accuracy of the minutes;
	(c) to change the order of business in the agenda;
	(d) to refer a matter to an appropriate body or individual;
	(e) to appoint a committee or members to comprise a committee as required in the summons for the meeting;
	(f) to receive reports, and to adopt recommendations, of committees or officers and make any resolutions following from them;
	(g) to withdraw a motion;
	(h) to amend a motion;
	(i) to divide a motion in accordance with rule 6.14
	(j) to proceed to the next business;
	(k) that the question be now put;
	(l) to adjourn a debate;
(m) to adjourn a meeting;	

	(n)	to suspend a particular council procedure rule;
	(o)	to exclude the public and press in accordance with the Access to Information Rules;
	(p)	to not hear further a member named under rule 10 or to exclude them from the meeting under rule 10.06; and
	(q)	to give the consent of the Council where its consent is required by this Constitution.
Interests		
5.22	A Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter to be considered, or being considered at a meeting must:	
	(a)	disclose the interest; and
	(b)	explain the nature of that interest at the start of the meeting or when the interest becomes apparent (subject to paragraph 5.26 below); and unless they have been granted a dispensation;
	(c)	not participate in any discussion of, or vote taken on, the matter at the meeting; and
	(d)	withdraw from the meeting room whenever it becomes apparent that the business is being considered; and
	(e)	not seek improperly to influence a decision about that business.
5.23	A Member with an Other Significant interest, may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. The Member will withdraw from the meeting room immediately after making representations, answering questions or giving evidence.	
5.24	Where a Member with a Disclosable Pecuniary Interest or Other Significant Interest in a matter under discussion (unless a dispensation has been granted in accordance with paragraph 5.22 of these Procedure Rules), chooses to participate in the discussion and vote, the Chairman will refuse to count the 'vote' of the Member concerned, for the 'vote' will have been cast unlawfully and cannot be considered to be a vote at all. The Chairman may apply the rules in Council Procedure Rules 10.6 to 10.9 relating to 'disorderly conduct'. <i>[Paragraph 8 (Dispensations) of the Members' Code of Conduct set out in Part 5 – Codes of this Constitution provides guidance on dispensations.]</i>	

5.25	The Chairman may request that a Member declare a Disclosable Pecuniary Interest or an Other Significant Interest and, if appropriate, leave the meeting room, should they have reason to believe that the provisions of the Code of Conduct and/or this Procedure Rule are being breached.
5.26	Where a Disclosable Pecuniary Interest or an Other Significant Interest has been agreed by the Monitoring Officer as being a Sensitive Interest, the Member need only disclose the existence of the interest but not its nature.
5.27	This Procedure Rule also applies to a Cabinet member acting alone under portfolio powers and to a ward Member who discharges functions at ward level.
6.	Rules of Debate for Council Meetings
No speeches until motion seconded	
6.1	No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.
Right to require motion in writing	
6.2	Unless notice of the motion had already been given, the Mayor may require it to be written down and handed to them before it is discussed.
Seconders' speech	
6.3	When seconding a motion or amendment, a member may reserve their speech until later in the debate.
Content and length of speeches	
6.4	Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Council.
When a Member may speak again	
6.5	A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
	(a) To speak once on an amendment moved by another member;
	(b) To move a further amendment if the motion has been amended since they last spoke;
	(c) If their first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which they spoke was carried);

	(d)	In exercise of a right of reply;
	(e)	On a point of order;
	(f)	By way of personal explanation; and
	(g)	To propose a closure motion
Amendments to motions		
6.6	An amendment to a motion must be relevant to the motion and will either be:	
	(a)	To refer the matter to an appropriate body or individual for consideration or reconsideration;
	(b)	To delete words, numbers or figures;
	(c)	To insert words, numbers or figures;
	(d)	To substitute words, numbers or figures;
	(e)	Combining matters referred to at (b), (c) and (d) above,
	as long as the aggregate effect of (b) to (d) is not to negate the motion.	
6.7	Only one amendment may be moved and discussed at any one time. However, if the Mayor considers that the conduct of business would be helped they may allow two or more amendments to be discussed together but not voted on. No further amendment may be moved until the amendment under discussion has been disposed of.	
6.8	If an amendment is not carried, other amendments to the original motion may be moved.	
6.9.	If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments may be moved.	
6.10	After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.	

Alteration of Motion	
6.11	A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
6.12	A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The consent will be signified without discussion.
6.13	Only alterations which could be made as an amendment may be made.
Severance of motion	
6.14.1	Where the subject of a motion relates to more than one matter and it would facilitate the despatch of business for each of those matters to be considered separately, a motion on notice which has been proposed and seconded may be divided into two or more separate motions.
6.14.2	A motion may be divided either by the agreement of both the proposer and seconder of the motion and with the consent of the meeting or by resolution of the Council, without discussion.
6.14.3	If the motion is divided, the separate parts of the motion each become substantive motions, which shall be considered by the Council in such order as the Mayor may determine.
Withdrawal of motion	
6.15	A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.
Right of reply	
6.16	The mover of a motion has a right to reply at the close of the debate on the motion immediately before it is put to the vote. If an amendment is moved, the mover of the original motion will also have the right of reply at the close of the debate on the amendment but will not otherwise speak on the amendment. The mover of an amendment will not have a right of reply following the debate on the amendment.
Motions which may be moved during debate	
6.17	When a motion is under debate, no other motion may be moved except the following procedural motions:
	(a) To withdraw a motion;

	(b)	To amend a motion;
	(c)	To proceed to the next business;
	(d)	That the question be now put;
	(e)	To adjourn a debate;
	(f)	To adjourn a meeting;
	(g)	To not hear further a member named under Rule 10.06 or to exclude them from the meeting under Rule 10.07; and
	(h)	To give the consent of the Council where its consent is required by this Constitution.
Closure motions		
6.18	A member may move, without comment, the following motions at the end of a speech of another member:	
	(a)	To proceed to the next business;
	(b)	That the question be now put;
	(c)	To adjourn a debate
	(d)	To adjourn a meeting
6.19	If a motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.	
6.20	If a motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.	
6.21	If a motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.	

6.22	If a motion to adjourn the debate or to adjourn the meeting is seconded and in the opinion of the Mayor the item has been sufficiently discussed the Mayor shall, from the chair, move that the question be now put and will put the motion to the vote after giving the mover of the original motion the right of reply.
Point of order	
6.23	A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of the Council's Rules of Procedure or the law. The member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the matter will be final.
Personal explanation	
6.24	A member may raise a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.
7.	Previous Decisions and Motions
7.1	A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least ten members.
7.2	A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least ten members. Once the motion or amendment is dealt with, the same procedure cannot be used again for six months.
8.	Voting
8.1	Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those members present and voting at the time the vote is taken.
8.2	If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.
8.3	The Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

8.4	If, before the vote is taken, two members present at the meeting require it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
8.5	Decisions taken at a budget decision meeting of the Council shall be subject to a recorded vote. For the purposes of this paragraph a 'budget decision meeting' shall have the meaning set out in the Local Authorities (Standing Orders) (England) Regulations 2001 as amended.
Rules for the Conduct of Recorded Votes	
-	When a recorded vote is requisitioned, each Member shall indicate their vote on an individual voting paper and will sign their name.
-	The Mayor will declare the result of a recorded vote, but the names of those voting or abstaining will not be read to the Council, but shall be entered in the Minutes.
-	Any Member of the Council is entitled to inspect any used voting paper in the Chief Executive's office during normal office hours.
-	The Chief Executive may destroy all used voting papers that have been in their custody for not less than six months from the date of the meeting at which the recorded vote took place.
Rules for the Conduct of Recorded Votes	
8.6	Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
8.7	Immediately after any vote is taken at a budget decision meeting of the Council there will be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.
9.	Minutes
9.1	Minutes will contain: <ul style="list-style-type: none"> - All resolutions passed at the meeting; - All motions on notice and amendments to them in the exact form and order the Mayor put them; - All motions to exclude the press and public in accordance with the Access to Information Rules

9.2	The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that can be discussed is their accuracy.	
9.3	Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to the signing of minutes.	
9.4	All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.	
10.	Conduct of Members and Public	
General		
10.1	Smoking, eating and the consumption of alcohol shall not be permitted during meetings.	
10.2	(a)	Where any meeting of the Council, is open to the public, any person shall, subject to the following provisions of paragraph 10 below, be permitted to attend for the purpose of reporting on the meeting and may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities during the meeting. "Reporting" includes photographing or making a video or audio recording of proceedings at a meeting and providing commentary on proceedings using social media.
	(b)	No oral reporting or commentary during a meeting shall be permitted if the person reporting or providing the commentary is present at the meeting.
10.3	If the public are excluded from a meeting in circumstances where it is likely that confidential or exempt information would be disclosed, no person shall report on the meeting by methods which can be used without that person's presence at the meeting, and which enable persons not present to see or hear the proceedings at the meeting as it takes place or later.	
Members		
10.4	When a member speaks at full Council they must stand and address the meeting through the Mayor. If more than one member stands, the Mayor will invite one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.	

10.5	When the Mayor stands during a debate, any member speaking at the time must stop and sit down. The meeting must be silent.
10.6	If a member persistently disregards the ruling of the Mayor by behaving improperly or offensively or deliberately obstructs business, the Mayor may move that the member be not heard further. If seconded, the motion will be voted on without discussion.
10.7	If the member continues to behave improperly after such a motion is carried, the Mayor may move that either the member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
10.8	If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he/she thinks necessary.
Public	
10.9	If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.
10.10	If there is a general disturbance in any part of the meeting room open to the public, the Mayor may call for that part of the room to be cleared.
10.11	Save as expressly permitted in the Procedure Rules, public speaking shall not be permitted at meetings of the Council.
11.	Suspension and Amendment of Procedure Rules
11.1	All of the rules set out in Part 1 and Part 2 of these Procedure Rules (except rule 8.5 or 9.3) may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.
11.02	Any motion to add to, vary or revoke any of the rules set out in Part 1 and Part 2 of these Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

2: Committees and Outside Bodies

12	Selection of Councillors on Committees and Outside Bodies
12.1	At the Annual meeting, the Council will:
	(i) decide which committees to establish for the municipal year;
	(ii) approve a programme of ordinary meetings of the committees for the year;
	(iii) decide the size and terms of reference for those committees;
	(iv) decide the allocation of seats to political groups in accordance with the political balance rules;
	(v) receive nominations of councillors to serve on each committee and outside body; and
	(vi) appoint to those committees and outside bodies.
12.2	The committees listed in Part 3 of the Constitution shall be the standing committees and sub-committees of the Council and shall have the membership specified.
12.3	Part 2 of the Council and Committee Procedure Rules shall apply to meetings of advisory panels and boards in accordance with the scheme for panels and boards to advise the Executive set out in Part 3 of the Constitution.
13	Rules for Convening Meetings
13.1	Ordinary meetings of committees will take place in accordance with a programme decided at the Council's annual meeting.
13.2	The Chief Executive may at any time call an extraordinary meeting of a committee or sub-committee of his own motion and shall do so at the request of the chairman of the committee or sub-committee, the Mayor or the leader. The Chief Executive may also call an extraordinary meeting of a committee or sub-committee on the requisition delivered to him/her in writing or by electronic mail of not less than three members of the committee or sub-committee.
13.3	Meetings will normally begin at 1930 hours and will be held at the Council's principal offices at Gibson Building, Gibson Drive, Kings Hill, or otherwise as determined by the chairman of the committee in consultation with the Chief Executive.

13.4	The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
13.5	At least five clear days* before a meeting, the Chief Executive will send a summons signed by him or her by post to every member of the committee or sub-committee or leave it at their usual place of residence. *“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting
13.6	The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available. No business other than that set out in the summons may be considered at the meeting.
13.7	The Chief Executive may agree with a member to send the summons and accompanying reports to him/her in such format, to such address and by such means as may be agreed.
14.	Rules for Conduct of Meetings
14.1	The Council’s rules for the conduct of meetings shall not apply to meetings of committees and sub-committees.
Chair of Meeting	
14.2.1	The chairman and vice-chairman of each committee and sub-committee shall be appointed by the Council at its annual meeting.
14.2.2	The council may also appoint a second vice-chairman for any committee or sub-committee.
14.2.3	If present, the chairman shall preside at the meeting.
14.2.4	If the chairman is not present, the vice-chairman shall preside at the meeting.
14.2.5	In the case of a committee or sub-committee for which a second vice-chairman has been appointed, if neither the chairman nor vice-chairman are present the second vice-chairman shall preside at the meeting.
14.2.6	If the chairman, vice-chairman or any second vice-chairman are not present, the committee or sub-committee may elect a member from among their number to preside at the meeting.

14.2.7	If, during the course of a meeting, the person in the chair is unable for any reason to preside over some business of the committee or sub-committee, the chair shall be taken by the member whom in accordance with this rule, would have taken the chair had the person vacating the chair not been present.
14.2.8	The person presiding at the meeting may exercise any power or duty of the Mayor.
Quorum	
14.3	Except as otherwise provided by law, and subject to rule 14.3.1, the quorum of a meeting of a committee will be four members and of a sub-committee will be three members.
14.3.1	The quorum of a meeting of the Audit Committee will be three members.
14.4	The quorum of a meeting of a panel or board to advise the Executive will be four members.
14.5	The quorum of a meeting of other member working groups will be three members.
14.6	During any meeting if the Chairman of the meeting counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately.
Unfinished Business	
14.7	If, at the time a meeting of a committee or sub-committee is adjourned, there remains unfinished business, the chairman of the meeting, after consultation with the Chief Executive, may fix a time and date for the consideration of the remaining business. If the chairman does not fix a date, the remaining business will be considered at the next ordinary meeting.
15.	Rules of Debate for Committee and Sub-Committee Meetings
15.1	The Council's rules of debate shall not apply to meetings of committees and sub-committees.
No Speeches until Motion Seconded	
15.2	Unless proposed by the chairman of the meeting, no speeches may be made after the mover had moved a proposal and explained the purpose of it until the motion has been seconded.

Right to Require Motion in Writing	
15.3	The chairman of the meeting may require any motion (incorporating any agreed amendments) to be written down and handed to him/her before it is discussed.
Content of Speeches	
15.4	Speeches must be directed to the question under discussion or to a personal explanation or point of order.
Amendments to Motions	
15.5	An amendment to a motion must be relevant to the motion and will either be:
(a)	to delete words, numbers or figures;
(b)	to insert words, numbers or figures;
(c)	to substitute words, numbers or figures;
(d)	combining matters referred to at (a), (b) and (c) above,
	as long as the aggregate effect of (b) to (d) is not to negate the motion.
15.6	Normally only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. However, if the chairman of the meeting considers that the conduct of the committee or sub-committee's business would be helped he/she may allow two or more amendments to be discussed together but not voted on.
15.7	If an amendment is not carried, other amendments to the original motion may be moved.
15.8	If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments may be proposed.
15.9	After an amendment has been carried, the chairman of the meeting will read out the amended motion before accepting any further amendments or, if there are none, put it to the vote.

Alteration of Motion	
15.10	A member may alter a motion which he/she has moved with the consent of both the meeting and the seconder. The consent will be signified without discussion. Only alterations which could be made as an amendment may be made.
Withdrawal of Motion	
15.11	A member may withdraw a motion which he/she has moved with the consent of both the meeting and any seconder. The consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.
Motions which may be Moved during Debate	
15.12	When a motion is under debate, no other motion may be moved except the following procedural motions:
(a)	to withdraw a motion;
(b)	to amend a motion;
(c)	to proceed to the next business;
(d)	that the question be now put;
(e)	to adjourn a debate;
(f)	to adjourn a meeting;
(g)	to not hear further a member named under rule 10.6 or to exclude them from the meeting under rule 10.7; and
(h)	to exclude the public and press in accordance with the Access to Information Rules.
Closure Motions	
15.13	A member may move, without comment, the following motions at the end of a speech of another member:
(a)	to proceed to the next business;
(b)	that the question be now put;
(c)	to adjourn a debate; or
(d)	to adjourn a meeting.

15.14	If a motion to proceed to next business is seconded and the chairman of the meeting thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
15.15	If a motion that the question be now put is seconded and the chairman of the meeting thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
15.16	If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman of the meeting thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.
15.17	If a motion to adjourn the debate or to adjourn the meeting is seconded and in the opinion of the chairman of the meeting the item has been sufficiently discussed the chairman shall, from the chair, move that the question be now put and will put the motion to the vote after giving the mover of the original motion the right of reply.
Point of Order	
15.18	A member may raise a point of order at any time. The chairman of the meeting will hear them immediately. A point of order may only relate to an alleged breach of the Council and Committee Procedure Rules or the law. The member must indicate the rule of law and the way in which he/she considers it has been broken. The ruling of the chairman of the meeting on the matter will be final.
Personal Explanation	
15.19	A member may raise a point of personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the chairman of the meeting on the admissibility of a personal explanation will be final.
Miscellaneous	
15.20	Part 1 of the Council and Committee Procedure Rules set out in sections 5.22 to 5.27 (Interests), 7 (Previous Decisions and Motions), 8 (Voting) (except rule 8.4), 9 (Minutes), 10 (Conduct of members and public) and rule 11.1 (Suspension of Council and Committee Procedure Rules) shall apply to meetings of committees and sub-committees, <u>the Executive</u> and panels and boards to advise the Executive.

15.21	<p>Any member of the Council may attend meetings of any committee or sub-committee (and, exceptionally, of Working Parties by prior invitation of the chairman) of which he is not a member and may, with the permission of the chairman speak but not vote.</p> <p>Provided that this rule does not apply to meetings of the Licensing and Appeals Panel or the Standards Hearings Panel</p>
15.22	<p>For the proper discharge of its responsibilities under Part 3 of the Constitution, the Audit Committee may require any member of the council or officer to attend before it, to answer questions and to produce any documents which the committee may reasonably require to see in connection with the discharge of its responsibilities under part 3 of this constitution.</p>
15.23	<p>Notwithstanding the provisions of rule 15.21, any member of the Council who has moved a motion at a meeting of the council which has been referred to a committee or sub-committee shall receive notice of the meeting of the committee or sub-committee which will consider his motion and he/she will have the right to attend the meeting and be given the opportunity of explaining the motion.</p>
15.24	<p>If, during discussion at an area planning committee of an item of business and before the vote is taken, not less than three members of the Council require it, the item shall instead be referred direct to the Council for decision.</p>
15.25	<p>If, contrary to a recommendation of the Director of Planning, Housing & Environmental Health, an area planning committee is minded to determine an application in a way or on grounds which the Director does not consider can be substantiated, the application shall stand adjourned to the next meeting of the committee to enable the Director of Central Services and Monitoring Officer to submit a report on the possibility of costs or compensation being awarded against the Council in the event that the application is determined in that way.</p> <p>If the Director of Central Services and Monitoring Officer's report indicates that there is likely to be a significant risk of costs being awarded against the council at any appeal, or a potential liability to pay compensation, the committee may not determine the application in a manner contrary to the advice set out in the report, and a resolution by the committee to make such a determination will be a recommendation only and the application shall stand adjourned to council for determination.</p>

15.26	If an item of business relates to the area covered by more than one Area Planning Committee, the matter shall be reported to both of the Committees concerned and the recommendations of both Committees shall be reported to Council for decision. However, if both Committees are agreed on their recommendations, the Director of Planning, Housing & Environmental Health may proceed to determine the application in accordance with those recommendations prior to consideration of those recommendations by the Council.
16.	Rules for Public Speaking in Respect of Planning Applications
16.1	The rules contained in the scheme set out as Annex 1 to these rules shall apply for the purpose of enabling members of the public to address an area planning committee in respect of applications for planning permission being considered by the committee. They also apply to planning applications being considered by the council when it has resolved itself into a committee of the full council.

RULES FOR PUBLIC SPEAKING IN RESPECT OF PLANNING APPLICATIONS

1. Application of rules

1.1 These rules apply to:

- the consideration of planning and allied applications that may be determined by the Borough Council;
- similar matters which involve the Council making comments to Government Departments

where the application is to be determined by an Area Planning Committee (or by Council in accordance with Council and Committee Procedure Rule 15.23 or 15.24), but do not apply to applications where the Council is a consultee and not the determining authority (except in cases where the response is to a Government Department and not another Planning Authority). These rules apply where the matter is to be determined by Council as they apply to determination by a Committee.

The right to speak does NOT apply to reports relating solely to:

- Enforcement matters
- The making of Tree Preservation Orders
- cases where the Council is consulted by other Planning Authorities under their statutory powers or
- any other business of the Area Planning Committees than that in 1.1 above.

2. Procedure before Committee

2.1 Where these rules apply, the Applicant's Acknowledgement Letter will indicate that, in the event that the matter is to be determined by a Committee, members of the public will be given an opportunity to speak at the Committee.

2.2 As soon as the Director of Planning, Housing & Environmental Health has determined that an application will be determined by a Committee, the applicant will be sent written notification stating the date, time and place of the Committee's meeting and specifying why the matter is to be determined by a Committee and not under the Director of Planning, Housing and Environmental Health's delegated powers.

- 2.3 The Neighbours' Consultation Letter will state that, in the event that the matter is to be determined by a Committee, members of the public will be given an opportunity to speak if they have made a written representation.
- 2.4 Members of the public and Parish Councils shall not be required to notify the Council in advance that they wish to take advantage of the opportunity to speak at Committee, but they will be encouraged to do so in order to facilitate the effective management of the Committee's business. The letter notifying of the Committee date shall also state that anyone who wishes to must register to do so with the Democratic Services officer contact as early as possible but, in any event, no later than 15 minutes before the scheduled start time of the Committee.
- 2.4.1 The letter will also encourage potential speakers to indicate (for the purposes of the Data Protection Act 1998 or any subsequent data protection legislation) if they agree to their contact details being shared with other representors to enable them to get in contact with each other and to encourage them to select a single spokesperson.
- 2.4.2 The letter will also state that, should members of the public wish to be sent a copy of the Director of Planning, Housing and Environmental Health's report to Committee, they should ask for this when sending in their representations and it will be sent to them by Development Control. They should be encouraged, where possible, to provide an e-mail address for this purpose.
- 2.4.3 As soon as the Director of Planning, Housing and Environmental Health has determined that an application will be determined by a Committee, the consultees will be sent written notification stating the date, time and place of the Committee's meeting and specifying why the matter is to be determined by a Committee.
- 2.5 The date of the meeting of the Committee at which an application is to be considered shall not be earlier than the date by which members of the public are to make their written representations unless -
- all those who have been invited to make representations have done so or have notified the Council that they do not wish to make any representations; or
 - the consultation is in respect of revisions to a scheme which has already been the subject of public consultation.

3. Procedure at Committee

- 3.1 In the introduction to the meeting the Chairman will explain the composition of the "top table" and show the location of the "speaker's podium". The Chairman will also explain the need for speakers to only deal with planning matters (briefing notes will be provided for speakers and the need to guard against making defamatory statements).

- 3.2 The Chairman will indicate the order in which the Agenda is to be dealt with.
- 3.3 Normally the Committee will run as the Agenda unless there is a large "public gallery" and the public would be better released before moving on to other business or for other operational reasons (with the Chairman having absolute discretion on this point).
- 3.4 The Chairman will explain the speaking time limitations. Each speaker will be limited to 3 minutes for each application. Where there is more than one application for a site, for example an application for planning permission and listed building consent, the time allowed will be limited to 3 minutes for each application i.e. 6 minutes in total.
- 3.5 Where the Chairman has suggested at the Chairman's briefing that an initial officer presentation is required, that presentation will be the first step in consideration of the Committee item, and will occur before the speakers are invited to speak.
- 3.6 Individual speakers will be invited to come forward to speak by name and normally the applicant or agent will be given the opportunity to speak last.
- 3.7 Committee Members will not be able to question speakers directly but may seek clarification of matters of fact raised by the speaker through the Chairman.
- 3.8 Speakers will be invited to return to the public gallery at the conclusion of their presentation in order to hear the debate.
- 3.9 At the conclusion of the public speaking, the Chairman will invite Members to debate the application. Officers shall not be given an opportunity to respond to points made by the speakers.
- 3.10 After members have debated the item, Officers will answer questions, summarise the debate or clarify points, including any matters arising from the points raised by speakers, and to give any necessary professional advice before Members reach their decision.
- 3.11 If the case is deferred for a site inspection or for a further report speakers will be permitted to speak again at a subsequent meeting.

ACCESS TO INFORMATION PROCEDURE RULES

1. Scope

Rules 1 - 11 apply to all meetings of the Council, Overview and Scrutiny Committee, area committees, the Joint Standards Committee, regulatory and other committees and meetings of the executive (together called meetings). Additional provisions specific to the executive are set out at Rules 12 – 26.

2. Additional rights to information

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

3. Rights to attend meetings

Members of the public may attend all meetings subject only to the exceptions in these rules set out at Rule 10 (Exclusion of access by the public to meetings).

4. Notice of meetings

The Council will give at least five clear days^{*} notice of any meeting by posting details of the meeting on the website and at the Council Offices, Gibson Drive, Kings Hill (the designated office) and at the Council Offices, Tonbridge Castle, Tonbridge.

*“clear days” refers to weekday working days and does not include the day of publication or the day of the meeting

In the case of a meeting of the Joint Standards Committee, written notice of the time and place of the meeting shall also be given by electronic means to every town and parish council in the Borough at least five clear days before that meeting or, if the meeting is convened at shorter notice, then at the time it is convened.

5. Access to agenda and reports before the meeting

The Council will make copies of the agenda and reports to meetings open to the public available for inspection on the website and at the designated office at least five clear days before the meeting (and at the Tonbridge Castle office as soon as practicable thereafter). If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Chief Executive shall make each such report available to the public as soon as the report is completed and sent to councillors.

In the case of a meeting of the Joint Standards Committee, a copy of the agenda for a meeting and copies of any report for a meeting containing written notice of the time and place of the meeting shall also be sent electronically to every town and parish council in the Borough.

6. Supply of copies

The Council will supply copies of:

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

to any person via email with a link to the relevant part of the website or paper copies on payment of a charge for postage and any other costs

7. Access to minutes after the meeting

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

- (a) the minutes of the meeting or records of decisions taken, (together with reasons for all meetings of the executive), excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information (as defined in Rule 10 below);
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

In addition, in the case of a meeting of the Joint Standards Committee, the Borough Council will send electronically to every town and parish council in the Borough copies of the documents referred to in paragraphs (a), (b) and (c) above.

8. Background papers

8.1 List of background papers

The author of the report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and

- (b) which have been relied on to a material extent in preparing the report but does not include published works of those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. Summary of public's rights

This part of the Council's Constitution meets the requirement that a written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the designated office. (It will also be kept and be available to the public at the Tonbridge Castle office).

10. Exclusion of access by the public to meetings

The following paragraphs set out the circumstances in which the public may be excluded from meetings, as defined by the law. There is, however, a general presumption that meetings will be open to the public to attend.

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information (as defined below) would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information (as defined below) would be disclosed.

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

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed under any enactment or by an order of a court.

10.4 *Meaning of exempt information*

(1) Exempt information means information falling within the categories in the following table. These categories are subject to the stated conditions:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information):

Save that information is not exempt if it is required to be registered under:

- The Companies Act 1985
 - The Friendly Societies Act 1974
 - The Friendly Societies Act 1992
 - The Industrial and Provident Societies Acts 1965 to 1978
 - The Building Societies Act 1986 or
 - The Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

(2) Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

(3) Information which –

- falls within any of paragraphs 1 to 7 above; and
- is not prevented from being exempt by virtue of paragraph (2) above,
- is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

11. Exclusion of access by the public to reports

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

12. Application of rules to the executive

Rules 1 – 11 apply to the executive and its committees. If the executive or its committees meet to take a key decision then it must also comply with Rules 13 – 14 unless Rule 15 (general exception) or Rule 16 (special urgency) apply.

A key decision is as defined in Article 13.03 (Part 2) of this Constitution.

If any meeting of the executive or its committees, or any part thereof, is likely to be held in private, Rule 18 also applies. This requirement does not include meetings whose sole purpose is for officers to brief members.

13. Procedure before taking key decisions

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) a notice of forthcoming key decisions has been published in connection with the matter in question at least 28 clear days before the key decision is made;
- (b) where the decision is to be taken at a meeting of the executive or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. Notice of forthcoming key decisions

14.1 Contents of notice of forthcoming key decisions

The notice of forthcoming key decisions will contain matters which will be subject of a key decision to be taken by the executive, a committee or area committee of the executive, individual members of the executive, officers, or under joint arrangements in the course of the discharge of an executive

function. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a. the matter in respect of which a key decision is to be made;
- b. where the decision maker is an individual, his/her name and title, if any and where the decision maker is a body, its name and details of membership;
- c. the date on which, or the period within which, the decision will be taken;
- d. a list of the documents submitted to the decision maker for consideration in relation to the matter;
- e. the address from which, subject to any prohibition or restriction on their disclosure, copies of or extracts from any document listed is available;
- f. that other documents relevant to those matters may be submitted to the decision maker; and
- g. the procedure for requesting details of those documents (if any) as they become available.

14.2 Publication of notice of forthcoming key decisions

At least 28 clear days before a key decision is made, the notice of forthcoming key decisions must be made available for inspection by the public at the offices of the Council and on the website.

The notice of forthcoming key decisions must contain particulars of the matter to be discussed but may not contain any confidential or exempt information.

15. General exception

Subject to Rule 16 (special urgency), where the publication of the intention to make a key decision is impracticable, the decision may only be made if :

- (a) the Chief Executive has informed the chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter about which the decision is to be made and why compliance with Rule 14 is impracticable;
- (b) the Chief Executive has made a copy of that notice available to the public at the offices of the Council and published it on the website; and
- (c) at least five clear days have elapsed since the Chief Executive complied with (a) and (b).

16. Special urgency

If by virtue of the date by which a key decision must be taken Rule 15 (general exception) cannot be followed then the decision can only be taken if the decision maker obtains the agreement of the Chairman of the Overview and Scrutiny Committee or, if they are unable to act, of the Mayor or Deputy Mayor [and the political group leaders] that the making of the decision is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after obtaining the above agreement, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred shall be made available to the public at the offices of the Council and published on the website.

17 Private meetings or part thereof

The following procedures apply to decisions made by the executive, a committee or area committee of the executive, or under joint arrangements in the course of the discharge of an executive function where it is intended to hold a meeting or part thereof in private.

At least 28 clear days before a decision is made at a private meeting of the executive or part thereof, a notice of intention to hold the meeting in private shall be made available to the public at the offices of the Council and published on the website. The notice must state why the meeting will be held in private.

At least five clear days* before a private meeting a further notice of intention to hold the meeting or part thereof in private shall be made available to the public at the offices of the Council and published on the website. This requirement would ordinarily be fulfilled by publication of the meeting agenda. The notice at (b) above must include a statement of the reasons for the meeting or part thereof to be held in private; details of any representations received about why the meeting or part thereof should be open to the public; and a statement of response to any such representations.

*"clear days" refers to weekday working days and does not include the day of publication or the day of the meeting

Where the date by which a meeting must be held makes compliance with the procedure at (a) to (c) impracticable, the meeting or part thereof may only be held in private where agreement that the meeting is urgent and cannot reasonably be deferred has been obtained from the chairman of the overview and scrutiny committee or, if they are unable to act, from the Mayor or Deputy Mayor.

As soon as reasonably practicable after obtaining the above agreement, a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred shall be made available to the public at the offices of the Council and published on the website.

18. Report to council

18.1 When the Overview and Scrutiny Committee can require a report

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

- (a) included in the notice of forthcoming key decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement that it may be treated as urgent under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Chief Executive, who shall require such a report on behalf of the committee when so requested by the chairman. Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Committee.

18.2 Executive's report to Council

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

18.3 Annual reports on special urgency decisions

In any event the leader will submit annual reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

19. Record of decisions

After any meeting of the executive or any committee of the executive, the Chief Executive will produce a record of every decision taken at that meeting as soon as reasonably practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

20. Decisions by officers

As soon as reasonably practicable after a key decision has been taken by an officer (normally within two working days), he/she will prepare, or arrange for the preparation of, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected.

21. Executive meetings relating to matters which are not key decisions

With the exception of matters falling within Rule 10 above, all meetings of the executive will be held in public, whether or not the meeting relate to matters which are key decisions.

22. Notice of the meetings of the executive

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

The agenda and reports of any such meeting will also be circulated to all other members of the Council at the same time as they are circulated to members of the executive, unless:

- (a) any individual member indicates that he/she does not wish to receive specified papers;
- (b) a report contains information or advice which the Council is unable to supply to members not involved in the making of a decision because of any statutory provision or the terms of any agreement.

23. Member and officer attendance at meetings of the executive

Members of the Council who are not members of the executive may attend meetings of the executive and any committees of the executive. With the agreement of the leader any such member may address the executive on any item on the agenda, but may not vote.

The Chief Executive, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the executive or a committee of the executive.

24. Decisions by individual members of the executive

24.1 Reports intended to be taken into account

Where an individual member of the executive receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least five clear days after receipt of that report.

24.2 Provision of copies of reports to other Members

Any report prepared for an individual decision maker will be circulated to all relevant members of the Council in accordance with the Rules for the making of decisions by Executive Members set out in this Part of the Constitution, subject to the exceptions referred to in Rule 22 above. The report will also be available to the public in accordance with these Rules.

24.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the executive, the Chief Executive will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the executive. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

25. Overview and Scrutiny Committee's access to documents

25.1 Rights to copies

Subject to Rule 25.2 below, the Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the executive or its committees and which contains material relating to:

- (a) any business transacted at a meeting of the executive or its committees; or
- (b) any decision taken by an individual member of the executive or any 'key decision' taken by an officer

25.2 Limit on rights

The Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or

- (c) the advice of a political adviser.

26. Additional rights of access for members

26.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business previously transacted unless either (a) or (b) below applies.

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information; or
- (b) it contains the advice of a political adviser

26.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive or its committees which relates to any key decision unless paragraph 26.1 (a) or (b) above applies.

26.3 Nature of rights

These rights of a member are additional to any other right they may have.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. The framework for executive decisions

The Council will be responsible for the adoption and amendment of its budget and policy framework as set out in Article 4. Once the budget and policy framework is in place, it will be the responsibility of the executive to implement it.

2. The process for developing the framework

The process by which the budget and policy framework shall be developed or amended is:

- (a) At least 2 months before a plan/strategy/budget needs to be adopted, the executive will publish initial proposals for the budget and policy framework (or its amendment), having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Details of the executive's consultation process shall be included in relation to each of the matters in the forward plan, together with any other publicity the executive deems appropriate. Any representations made to the executive shall be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where the overview and scrutiny committee has carried out a review of policy, then the outcome of that review will be reported to the executive and considered in the preparation of initial proposals.
- (b) The executive's initial proposals shall be referred to the Overview and Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Chief Executive who will forward them to the chairman (and to every member) of the Overview and Scrutiny Committee.

The Overview and Scrutiny Committee shall canvass the views of local stakeholders if it considers it appropriate in accordance with the matter under consideration, and having particular regard not to duplicate any consultation carried out by the executive. The Overview and Scrutiny Committee shall report to the executive on the outcome of its deliberations. The Overview and Scrutiny Committee shall have six weeks to respond to the initial proposals of the executive unless the executive considers that there are special factors that make this time scale inappropriate. If it does, it will inform the Overview and Scrutiny Committee of the time for response when the proposals are referred to it.

- (c) Having considered the report of the Overview and Scrutiny Committee, the executive, if it considers it appropriate, may amend its proposals before submitting them to the council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- (d) The Council will consider the proposals of the executive and may adopt them, amend them, refer them back to the executive for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the executive's proposals and any report from the overview and scrutiny committee.
- (e) The Council's decision will be publicised in accordance with Article 4 and a copy shall be given to the leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the executive's proposals without amendment) or (if the executive's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of five working days after the publication of the notice of decision, unless the leader objects to it in that period.
- (f) If the leader objects to the decision of the Council, he/she shall give written notice to the Chief Executive to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Chief Executive shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 10 working days of the receipt of the leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Article 4, and shall be implemented immediately.
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council.

The foregoing rules shall be subject to the rules set out in Annex 2, which have effect in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001.

3. Decisions outside the budget or policy framework

- (a) Subject to the provisions of paragraph 5 (virement) the executive, and any officers discharging executive functions may only take decisions which are in line with the budget and policy framework. If either the executive or any officers discharging executive functions wish to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the executive or any officers discharging executive functions want to make such a decision, they shall take advice from the monitoring officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4. Urgent decisions outside the budget or policy framework

- (a) The executive 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 Chairman 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 Chairman 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 Chairman 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.

5. Virement

Steps taken by the executive or officers discharging executive functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, virement across budget heads will be allowed in accordance with the Financial Procedure Rules in Part 4 of this Constitution. Beyond such limits, approval to any virement across budget heads shall require the approval of the full Council.

6. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the full Council and decisions by the executive or officers discharging executive functions must be in line with it. No changes to any policy or strategy which make up the policy framework may be made by that body or those individuals except those changes:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

7. Call-in of decisions outside the budget or policy framework

- (a) Where the Overview and Scrutiny Committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the executive, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive must meet to decide what action to take in respect of the monitoring officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the

policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- (i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (ii) amend the council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

8. Alternative procedure for re-adoption of policy

Where a Chief Officer, after consultation with the Monitoring Officer, proposes to recommend to Council or to the Executive that an existing policy of the Council be re-adopted, with or without minor revisions, he/she may submit a report to the Overview and Scrutiny Committee containing his/her recommendations. The Overview and Scrutiny Committee shall consider the recommendations and shall report to the Executive on the outcome of its deliberations. Where this procedure is followed, rules 2(a) and (b) above shall not apply.

**PROVISIONS TO BE INCORPORATED INTO STANDING ORDERS
REGULATING PROCEEDINGS AND BUSINESS**

1. In this Part -

"executive" and "executive leader" have the same meaning as in Part II of the Local Government Act 2000; and
"plan or strategy" and "working day" have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

2. Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

3. Before the authority -

- (a) amends the draft plan or strategy;
- (b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (c) adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

4. Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may -

- (a) submit a revision of the draft plan or strategy as amended by the executive (the "revised draft plan or strategy"), with the executive's reasons for any amendments made to the draft plan or strategy, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

5. When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when -

- (a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
- (b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
- (c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive's reasons for those amendments, any disagreement that the executive has with any of the authority's objections and the executive's reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.

6. Subject to paragraph 10, where, before 8th February in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year -

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7.

7. Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8. Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may -

- (a) submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- (b) inform the authority of any disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9. When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account -

- (a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- (b) the executive's reasons for those amendments;
- (c) any disagreement that the executive has with any of the authority's objections; and
- (d) the executive's reasons for that disagreement,

which the executive leader submitted to the authority, or informed the authority of, within the period specified.

10. Paragraphs 6 to 9 shall not apply in relation to -

- (a) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

EXECUTIVE PROCEDURE RULES

1. How Does the Executive Operate?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- (a) the executive as a whole;
- (b) a committee of the executive;
- (c) an individual member of the executive;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority

1.2 Delegation of functions

At the annual meeting of the Council, the leader will present to the Council for adoption a written statement of recommended delegations for inclusion in the Council's scheme of delegation in Part 3 of this Constitution. The document presented by the leader will contain the following recommendations about executive functions in relation to the coming year:

- (a) the extent of any authority to be delegated to executive members individually, including details of the limitation on their authority;
- (b) the terms of reference and constitution of such executive committees as the leader recommends be appointed and the names of executive members to be appointed to them;
- (c) the nature and extent of any intended delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those executive members to be appointed to any joint committee for the coming year; and
- (d) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) where the executive, a committee of the executive or an individual member of the executive is responsible for executive functions, they may delegate further to an area committee, joint arrangements or an officer
- (b) even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated

1.4 The Council's scheme of delegation of executive functions

Article 7 and Part 3 of this Constitution set out the delegation arrangements currently in force in the authority. These will be subject to adoption by the Council and may only be amended by the Council other than in relation to the nature and extent of, and limitation on delegation to officers which may be amended by the leader at any time. The leader must give written notice of such officer delegation amendments to the Chief Executive who will present a report to the next meeting of the Council setting out the changes made by the leader.

1.5 Conflicts of Interest

Unless a dispensation to vote has been given:

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution
- (c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution

1.6 When and Where executive meetings will be held

The executive will be scheduled to meet at least five times per year at times to be agreed by the Council. The executive shall meet at the Council's main offices or any other location to be determined by the Chief Executive in consultation with the Leader.

1.7 Public access to meetings of the executive

All meetings of the executive will be open to the public, unless the item under discussion is considered exempt or confidential – see the Access to Information Procedure Rules in Part 4 of this Constitution for further information.

1.8 Quorum

The quorum for a meeting of the executive, or a committee of it, shall be three members of the executive.

1.9 How are decisions to be taken by the executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.
- (c) Key decisions (as defined in Article 8.03 in Part 2 of the Constitution) may only be made where the provisions of paragraphs 13-16 of the Access to Information Procedure Rules have been complied with

2. HOW ARE EXECUTIVE MEETINGS CONDUCTED

2.1 Who presides?

If the leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

2.2 Who may attend?

Any member of the Council may attend any executive meeting. Members of the public may attend any executive meeting, except when confidential or exempt information is being discussed.

2.3 What business

At each meeting of the executive the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any:

- (c) matters referred to the executive (whether by the Overview and Scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) issues arising from Overview and Scrutiny;
- (e) receipt of written representations from members of the Council; and
- (f) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

2.4 Consultation

All reports to the executive from any members of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation carried out with stakeholders and the Overview and Scrutiny Committee, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the executive agenda?

- (a) Any member of the executive may require the Chief Executive to ensure that an item is placed on the agenda of the next available meeting of the executive for consideration whether or not authority has been delegated to the executive, a committee of the executive, any individual member of the executive, or officer in respect of that matter.
- (b) The Chief Executive will ensure that an item is placed on the agenda of the next appropriate meeting of the executive where the Overview and Scrutiny committee or the full Council have resolved that an item be considered by the executive.
- (c) The Chief Executive may include an item for consideration on the agenda of an executive meeting in pursuance of his/her statutory duties or where he/she is of the opinion that an executive decision is required on any matter.

If the volume of business for any one meeting appears excessive, the leader, in consultation with the Chief Executive, may defer consideration to the next appropriate meeting except that items placed on the agenda by the Council may not be deferred if the Council requires them to be considered at that meeting.

RULES FOR THE MAKING OF DECISIONS BY EXECUTIVE MEMBERS

1. Subject to the following rules, an Executive Member may make a decision in respect of any matter falling within his/her portfolio, except a Key Decision.
2. The powers of an Executive Member shall be exercised by him/her personally save where he/she is unable to act owing to absence or illness, when they may be exercised on his/her behalf by another Executive Member who has been nominated for the purpose by the Leader and the Chief Executive has been given written notice of such nomination.
3. If a matter which the Executive Member would normally deal with under this delegated authority is in his/her opinion likely to give rise to unusual difficulty or controversy, he/she shall refer it for determination by the Cabinet.
4. A decision made by an Executive Member shall not have effect unless:
 - (a) there has been a written report circulated to all Members prior to the meeting of an Advisory Board or an Area Planning Committee from the appropriate Chief Officer(s) stating that the decision is in conformity with the Council's budget and policy framework and that any reports are not substantially altered by supplementary reports circulated at the meeting;
 - (b) the report has been considered by an Advisory Board or an Area Planning Committee, which has recommended that the decision be made;
 - (c) the decision has been recorded in writing in the manner specified by the Monitoring Officer; and
 - (d) the decision has been counter-signed by the Leader of the Council and the Chief Executive (save for a decision made by the Leader of the Council, which shall be counter-signed only by the Chief Executive).
5. A decision by an Executive Member shall be published in accordance with Rule 15 of the Overview and Scrutiny Procedure Rules and may be called-in in accordance with those Rules. A decision which has been called-in and considered by the Overview and Scrutiny Committee shall, if the Committee is still concerned about it, be referred to the Cabinet for consideration, and the Cabinet shall consider the Overview and Scrutiny Committee's report before making a final decision.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Arrangements for Overview and Scrutiny Committee

The Council will have the Overview and Scrutiny Committee set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub committees which will also be subject to these Procedure Rules. Additional Overview and Scrutiny Committee may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

Overview and Scrutiny Committee will have the power to investigate any matters they consider relevant to their work area, and to make recommendations to the Council, the executive or any committee or sub-committee of the Council as they see fit. Their **terms of reference** will be:

- (a) the performance of all overview and scrutiny functions on behalf of the Council in relation to the area of work allocated to that committee
- (b) the appointment of such sub-committees as is considered appropriate to fulfil those overview and scrutiny functions
- (c) to approve an annual work programme, including the programme of any sub-committees appointed so as to ensure that time is effectively and efficiently utilised
- (d) to receive requests from the executive and/or full Council for overview and scrutiny reports and to respond accordingly
- (e) to put in place a system to ensure that referrals from overview and scrutiny to the executive, either by way of report or for re-consideration are managed efficiently
- (f) in the event of the volume of referrals creating difficulty for the management of executive business or jeopardising the efficient running of Council business, at the request of the executive, to make decisions about the priority of referrals made

On adoption of this Constitution, Overview and Scrutiny Committee may appoint (and discontinue) sub-committees and amend their terms of reference, as appropriate, provided that consultation has been carried out with interested parties. Any changes will be reported to the Chief Executive and then to the next meeting of the Council by the Chairman of the Overview and Scrutiny Committee, so that the Constitution may be amended accordingly.

2. Who may sit on Overview and Scrutiny Committee?

All councillors except members of the executive may be members of the Overview and Scrutiny Committee, the political composition of which will reflect as nearly as possible the political composition of the Council as a whole. No councillor may be involved in scrutinising a decision in which they have been directly involved.

3. Co-optees

The Overview and Scrutiny Committee or its sub-committees shall be entitled to recommend to Council the appointment to it of people as non-voting co-optees.

4. Meetings of Overview and Scrutiny Committee

There shall be at least 4 scheduled meetings of the Overview and Scrutiny Committee in each year at times to be agreed by the Council. In addition, extraordinary meetings may be called from time to time as and when appropriate. The Overview and Scrutiny Committee meeting may be called by:

- (a) the chairman of the committee
- (b) any three members of the committee
- (c) the full Council or
- (d) the Chief Executive if he/she considers it necessary

5. Quorum

The quorum for the Overview and Scrutiny Committee shall be as set out for committees in the Council and Committee Procedure Rules in Part 4 of this Constitution.

6. Chairing Overview and Scrutiny Committee meetings

Chairmen and Vice-Chairmen of Overview and Scrutiny Committee/sub-committees will be drawn from among the councillors sitting on the committee/sub-committees, and subject to this requirement the committee/sub-committees may appoint such persons as it considers appropriate as chairmen and vice-chairmen.

7. Work programme

The Overview and Scrutiny Committee will be responsible for setting their own work programme and in doing so they will take into account the views of members on the committee who are not members of the controlling political group(s) on the Council.

8. Agenda items

Any member of the Overview and Scrutiny Committee or sub-committee shall be entitled to give notice to the Chief Executive that he/she wishes an item relevant to the functions of the committee or sub-committee to be included on the agenda for the next available meeting of the committee or sub-committee. On receipt of such a request the Chief Executive will ensure that it is included on the next available agenda.

The Overview and Scrutiny Committee shall also respond, as soon as their work programmes permit, to requests from the Council and, if considered appropriate, the executive to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report its findings and any recommendations back to the executive and/or Council. The Council and/or the executive shall consider the report of the Overview and Scrutiny Committee at its next appropriate meeting unless the Chairman of the Overview and Scrutiny Committee agrees otherwise.

9. Policy review and development

- (a) The role of the Overview and Scrutiny Committee in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Overview and Scrutiny Committee may make proposals to the executive for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Committee may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

10. Reports from Overview and Scrutiny Committee

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Chief Executive for consideration by the executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If the Overview and Scrutiny Committee cannot agree on one single final report to the Council or executive as appropriate, then one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.
- (c) The report of the Overview and Scrutiny Committee shall be considered by the Council or by the executive at its next appropriate meeting following submission to the Chief Executive, or such longer time scale as the chairman of the Overview and Scrutiny Committee may agree.

11. Making sure that Overview and Scrutiny reports are considered by the executive

Reports of Overview and Scrutiny Committee which have not already been considered by the executive shall be included in the next programmed executive agenda.

If the Chief Executive refers an Overview and Scrutiny Committee report to Council, he/she shall also serve a copy on the leader with notice that the matter is to be referred to Council. When the Council meets to consider any referral from the Overview and Scrutiny Committee on a matter which would have an impact on the budget and policy framework, it shall also consider the response of the executive on the Overview and Scrutiny Committee proposals.

Overview and Scrutiny Committee will have access to the executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from the Overview and Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the executive's consultation process in relation to any key decision.

12. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as councillors, members of Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the executive and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

13. Members and officers giving account

- (a) The Overview and Scrutiny Committee or sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the executive, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - i) any particular decision or series of decisions;
 - ii) the extent to which the actions taken implement Council policy; and/or
 - iii) their performance

and it is the duty of those persons to attend if so required.

The appropriate “senior officer” shall be identified following consultation with the Chief Executive.

- (b) Where any member or officer is required to attend the Overview and Scrutiny Committee under this provision, the chairman of that committee will inform the Chief Executive. The Chief Executive shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. (A shorter period of notice may be given with the agreement of the member or officer in question.) The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance.

14. Attendance by others

The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall notify the Chief Executive who will issue an invitation to such people to attend. Their attendance is entirely optional.

15. Call-in

- (a) When a decision is taken by the executive, an individual member of the executive, a committee of the executive, or a 'key decision' is made by an officer with delegated authority from the executive, or an area committee or under joint arrangements, that decision shall be notified to all members of the Council as soon as possible after it is taken (normally within two working days) and shall be made available at the main offices of the Council
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented on the expiry of five working days after publication of the decision unless it is called in.
- (c) During that period the Chief Executive shall call in a decision for scrutiny by the committee if so requested by:
 - (i) the Chairman of the Overview and Scrutiny Committee; or
 - (ii) any three members of the Overview and Scrutiny Committee

Such a request must be made in writing and must state the reason the chairman or members believes call in to be necessary. On receipt of such a request within five working days of publication of the decision, the Chief Executive shall notify the decision taker of the call in and shall within five working days of the decision to call-in, call a meeting of the Overview and Scrutiny Committee. Pending that meeting, the decision shall stand deferred and shall not be implemented

- (d) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to

the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider it, amending the decision or not, before adopting a final decision

- (e) If following a call-in of the decision, the Overview and Scrutiny Committee does not refer the matter either to Council or back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting
- (f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it
- (g) If the Council does not decide to refer the decision back to the decision-making body or person, the decision shall take effect on the date of the Council meeting
- (h) A decision-making person or body can be required to reconsider any particular decision only once

Call In and Urgency

- (i) The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interest. The record of the decision and notice by which it is made public shall state whether, in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The decision proposed shall be regarded as reasonable in all the circumstances and be treated as a matter of urgency unless the Chairman of Overview and Scrutiny and the political group leaders by simple majority, disagree. Decisions taken as a matter of urgency must be reported to the next appropriate meeting of the Council by the Chief Executive, together with the reasons for urgency.

- (j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

16. Procedure at Overview and Scrutiny Committee meetings

- (a) Overview and Scrutiny Committee and sub-committees shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest;
 - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision (Overview and Scrutiny Committee only);
 - (iv) determination of whether any executive decisions published since the Committee last met (and not 'out of time') should be 'called in' for consideration or referred to Council; (Overview and Scrutiny Committee only);
 - (v) responses of the Council or executive to reports of the Overview and Scrutiny Committee; and
 - (vi) the business otherwise set out on the agenda for the meeting
- (b) Where the Overview and Scrutiny Committee conducts investigations (eg with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the committee not having a conflict of interest be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
 - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis
- (c) Following any investigation or review, the committee/sub-committee shall commission a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public

Financial Procedure Rules

1. Definitions:

For the purposes of these Financial Procedure Rules the following definitions shall apply:-

- 1.1 **The Council** means the legal entity "Tonbridge & Malling Borough Council."
- 1.2 **Full Council** means the meeting of the full Council as set out in Article 4 of the Constitution.
- 1.3 **Overview and Scrutiny Committee** means a committee as set out in Article 6 of the Constitution and includes any advisory board reporting to them.
- 1.4 **Executive** means the Executive function as set out in Article 7 of the Constitution.
- 1.5 **Relevant Executive Member** means the Executive member to whom responsibility for any specific functions has been delegated.
- 1.6 **Standards Committee** means the committee as set out in Article 9 of the Constitution and includes any advisory board reporting to it.
- 1.7 **Chief Officer** means the designated officers set out in the Constitution Article 12 section 12.01 (b) and includes any officer of his/her Service acting on his/her behalf. The terms include the Chief Executive and Director of Finance & Transformation when acting as Service Chief Officers rather than as Head of Paid Service and Chief Financial Officer respectively.
- 1.8 **Statutory Officers** means the Chief Executive, the Monitoring Officer and the Director of Finance & Transformation as set out in Article 12 section 12.01 (c) of the Constitution.
- 1.9 **Chief Executive** means the Head of Paid Service as set out in Article 12 sections 12.01 and 12.02 of the Constitution and includes any officer acting on his/her behalf.
- 1.10 **Monitoring Officer** means the Director of Central Services as set out in the Constitution Article 12 sections 12.01 and 12.03 and includes any officer acting on his/her behalf.
- 1.11 **Director of Finance & Transformation** means the Chief Financial Officer holding responsibility for the Council's financial affairs for the purpose of Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988 and under the Constitution Article 12 sections 12.01 and 12.04. It includes any officer he/she has designated to act on his/her behalf.
- 1.12 **Accounts and Audit Regulations** means the Accounts and Audit Regulations (England) 2015 or the most recent version of the regulations dealing with local authority accounting and audit requirements which are in force or such other regulations as shall govern the accounting and audit arrangements of the Council from time to time.

1.13 **Internal Audit Charter** means the document approved from time to time by the Audit Committee setting out the purpose, authority and responsibility of the internal audit function and the overall delivery of the internal audit function in accordance with the Public Sector Internal Audit Standards and the Application Note to the Standards produced by CIPFA

1.14 **Chief Audit Executive** the person responsible for managing the internal audit function on behalf of the Authority

2. Application

- 2.1 These Financial Procedure Rules are the framework within which the Council's financial affairs are to be managed and form an important part of its corporate governance arrangements. Every officer and every person acting on behalf of the Council shall comply with the provisions of these Financial Procedure Rules. Failure to do so may result in action being taken in accordance with the Council's disciplinary procedures.
- 2.2 The Director of Finance & Transformation may issue procedures setting out the detailed application of these Financial Procedure Rules as necessary.

3. Financial Responsibilities

- 3.1 The Full Council is responsible for setting the budget, including the allocation of financial resources to different services and projects, proposed contingency funds, and setting the Council tax. It is responsible for decisions relating to the control of the Council's borrowing requirement, the control of capital expenditure and the setting of virement limits, as set out in Constitution Article 4 section 4.01 (b).
- 3.2 The Executive has overall responsibility for implementation of policy in accordance with parameters determined by Full Council and set out in 3.1 above. The Executive is authorised to make all financial decisions subject to such decisions being consistent with overall Council policy and the budget.
- 3.3 Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them under the Council's budget (Article 6 section 6.03). However, no committee may review or scrutinise a decision in which it was involved. (Article 1 section 1.03.6)
- 3.4 The Overview and Scrutiny Committee shall be the relevant committee of the Council in respect of the scrutiny of all financial matters, including the financial aspects of matters under the control of other committees.
- 3.5 The Director of Finance & Transformation will be responsible for the accounts and finances of the Council in every respect and as regards every Service. (Article 12 section 12.04 (b))
- 3.6 The Director of Finance & Transformation shall determine all accounting procedures and financial records of the Council and its officers in consultation with the relevant Chief Officer. All new or amended systems, procedures or practices with a financial implication shall be agreed with the Director of Finance & Transformation prior to implementation and must meet all requirements specified

by him/her.

- 3.7 Chief Officers shall be responsible for the proper maintenance of accounting procedures and records within their spheres of responsibility and for the security and integrity of data held in their Service.
- 3.8 Prior to reporting to Council, Executive, Committee or Advisory Board, Chief Officers shall consult with the Director of Finance & Transformation on the financial aspects of any proposals. They shall not advise on the method of financing any expenditure without prior consultation with the Director of Finance & Transformation.

4. Delegation of Financial Responsibilities

- 4.1 In the event of the Director of Finance & Transformation being absent or otherwise unable to act, his/her nominated deputy shall be empowered to act in relation to these Financial Procedure Rules on behalf of the Director of Finance & Transformation. The deputy nominated by the Director of Finance & Transformation shall be communicated by him/her to the Chief Executive and the Monitoring Officer and shall be subject to approval by the former.
- 4.2 In the event of the Chief Executive being absent or otherwise unable to act, his/her nominated deputy shall be empowered to act on his/her behalf in relation to these Financial Procedure Rules. The nominated deputies will be the Monitoring Officer and Director of Finance & Transformation acting jointly, unless otherwise determined by the Chief Executive.
- 4.3 In the event of a Chief Officer being absent any officer of his/her Service nominated by him/her shall have authority to act on his/her behalf in relation to these Financial Procedure Rules.
- 4.4 In cases of urgency and in the absence of the relevant officer, two of the three Statutory Officers acting jointly shall have the authority in relation to these Financial Procedure Rules of any other officer identified within these Financial Procedure Rules.

5. Accounting

- 5.1 The Director of Finance & Transformation shall compile all accounts and accounting records of the Council. All financial transactions of the Council shall be properly accounted for and the Council's accounts shall be maintained in accordance with statutory requirements and professional standards.

6. Petty Cash Accounts

- 6.1 Petty cash accounts may be advanced to such officers as may be determined by the Director of Finance & Transformation and will be such sum as may be determined by him/her. Such accounts shall be maintained in accordance with such procedures as may be determined by the Director of Finance &

Transformation.

7. Audit

- 7.1 The Council will maintain an adequate and effective internal audit in accordance with statutory requirements and professional standards.
- 7.2 The Director of Finance & Transformation has responsibility for discharging the Council's internal audit responsibilities.
- 7.3 The scope of internal audits shall encompass the examination and evaluation of the adequacy and effectiveness of the Council's system of internal control and the quality of performance in carrying out assigned duties and responsibilities. Internal audits shall:
- Review the reliability and integrity of financial and operating information and the means used to identify, measure, classify and report such information;
 - Review the systems established to ensure compliance with those policies, plans, procedures, laws and regulations which could have a significant impact on operations and reports and should determine whether the Council is in compliance;
 - Review the means of safeguarding assets and where appropriate verify the existence of such assets;
 - Appraise the economy and efficiency with which resources are employed;
 - Review the operations or programmes to ascertain whether results are consistent with established objectives and goals and whether the operations or programmes are being carried out as planned and approved.
- 7.4 For the purpose of conducting internal audit enquiries, the Director of Finance & Transformation or his/her authorised representative shall be entitled to:
- Enter any Council premises or land at reasonable times;
 - Have access to all records, documents and correspondence relating to any Council business;
 - Require and receive such explanations as may be necessary concerning any matter under examination;
 - Require any employee of the Council to produce cash, stores or any other Council property under his/her control.
- 7.5 Any employee who suspects fraud, financial loss or error must either
- Raise their concerns under the Whistle Blowing Policy; or
 - Inform their Chief Officer, who must notify the Director of Finance & Transformation ; or

- Follow the procedures set out in the Council's Anti-Fraud, Bribery and Corruption Policy.

7.6 The reporting arrangements in respect of internal audit reports are set out in the Whistle Blowing Policy. In the case of suspected fraud or major internal control weaknesses, the Internal Audit Charter authorises the Chief Audit Executive to investigate and report all instances of fraud.

7.7 The Chief Audit Executive shall have the right of direct access to the Chief Executive, the Monitoring Officer and to Members where he/she considers this is necessary.

8. Banking Arrangements

8.1 All facilities required in respect of banking shall be made by the Director of Finance & Transformation, who shall be a signatory to every bank account and banking arrangement of the Council.

8.2 All cheques and payment documents shall be ordered only on the authority of the Director of Finance & Transformation, who shall ensure proper arrangements for their safe custody.

8.3 Cheques drawn on the Council's banking accounts shall bear the facsimile signature of the Director of Finance & Transformation or be signed by the Director of Finance & Transformation or officers authorised by him/her.

8.4 Payments from bank accounts to be processed electronically shall be authorised by the Director of Finance & Transformation or officers authorised by him/her.

8.5 Overdraft facilities may be arranged by the Director of Finance & Transformation within overall limits approved by the Council.

9. Corporate Credit Cards

9.1 All corporate credit cards shall be issued in the name of the Director of Finance & Transformation who shall give instructions regarding their use and storage by designated officers from time to time.

9.2 Any officer authorised by the Director of Finance & Transformation to hold and use a Corporate Credit Card must strictly comply with the instructions given and any guidance issued by the Director of Finance & Transformation from time to time.

10. Borrowing Powers

10.1 The borrowing powers of the Council will be exercised only in accordance with the policies of the Council (Article 4 section 4.01 (b)).

10.2 The Director of Finance & Transformation is responsible for all borrowing on behalf of the Council. The Director of Finance & Transformation may authorise other Chief Officers to enter into such arrangements if he/she has examined and is satisfied with the terms of any such arrangement.

11. Property and Land Holdings

- 11.1 The Director of Central Services is responsible for maintaining a register of land and buildings owned by the Council and for producing an Asset Management Plan for adoption by the Council.
- 11.2 The Director of Central Services and Monitoring Officer is responsible for the safe custody of all title deeds relating to Council owned land and property.

12. Financial Planning and Control

- 12.1 The Director of Finance & Transformation shall prepare annual estimates of income and expenditure in consultation with Chief Officers for submission to the Executive.
- 12.2 In accordance with the Budget and Policy Framework Procedure Rules set out in Part 4 of the Constitution, the Executive will consider annually:
- The proposed programme of capital expenditure forming List A of the Capital Plan;
 - Estimates of income and expenditure on the revenue account for the ensuing year.
- 12.3 Following consultation as set out in Part 4 of the Constitution, including consultation with the Overview and Scrutiny Committee, the Executive shall consider the consequences of these programmes and estimates and receive the advice of the relevant Chief Officers and the Statutory Officers before recommending to Full Council the council tax to be levied, the revenue budgets and the Capital Plan for the ensuing year.
- 12.4 The approval of revenue estimates by the Full Council will constitute authority to incur the expenditure as detailed in the estimates.
- 12.5 Any proposal to incur unbudgeted expenditure after Full Council has approved the budget or Capital Plan must be submitted to the Executive for approval. Approval will be subject to the limits on virement set out in paragraph 13.3 of these Financial Procedure Rules and the requirements in respect of supplementary estimates set out in paragraph 15.1 of these Rules.
- 12.6 Each Chief Officer is responsible for the control of income and expenditure within the Services under his/her control.
- 12.7 Each Chief Officer shall immediately advise the Director of Finance & Transformation should he/she become aware of a variance or likely variance from an approved estimate in the budget or Capital Plan that will exceed £5,000.
- 12.8 Variance or likely variance from an approved estimate of more than £10,000 shall be reported by the Director of Finance & Transformation to the Executive.
- 12.9 The Director of Finance & Transformation shall provide the Executive with regular monitoring reports during each financial year comparing actual expenditure against the budget in key areas. These include salaries expenditure, investment and other

major sources of income, collection of council tax and national non domestic rates, and such other key financial performance information as the Director of Finance & Transformation considers is necessary for the Executive to discharge its responsibilities effectively.

- 12.10 The Director of Finance & Transformation shall provide the Executive with regular monitoring reports comparing actual capital expenditure with the Capital Plan List A for the financial year in question.
- 12.11 The Director of Finance & Transformation shall provide an annual outturn report to the Executive showing actual revenue and capital expenditure against the revenue budget and Capital Plan for the preceding financial year, together with his/her recommendations on any action that should be taken in the light of the outturn information.
- 12.12 The Director of Finance & Transformation will meet the requirements of Section 9 of the Accounts and Audit (England) Regulations 2015 as amended from time to time by presenting the Statement of Accounts to the Audit Committee, which shall have delegated authority to approve these on behalf of the Council.
- 12.13 Nothing in these Rules shall prevent the expenditure by Chief Officers on any item which is essential to meet any immediate needs created by an emergency or which is anticipated by Section 138 of the Local Government Act 1972 subject to a subsequent report on such expenditure being made to Cabinet and/or Full Council

13 Virements

- 13.1 The transfer of budgetary provision from one area of revenue or capital income/expenditure to another in order to finance spending in an area by using a saving in another area is known as a virement.
- 13.2 Under Article 4 section 4.01 (b) only the Full Council may change the limits for virement. Only Full Council may authorise a virement that commits the Council to ongoing future expenditure.
- 13.3 The limits for virement approved by the Council are as follows:
 - Chief Officers may transfer up to £10,000 in a financial year between budgets relating to the same area of Service activity (e.g. Housing, environmental health, leisure etc.). Any such transfer must be immediately notified in writing to the Director of Finance & Transformation.
 - The Chief Executive, in consultation with the Management Team and Director of Finance & Transformation, may transfer up to £25,000 in a financial year between budgets relating to the same area of Service activity.
 - The Executive may approve virements up to a limit of £50,000, including those that involve a transfer between different areas of Service activity.
- 13.4 The Director of Finance & Transformation will report to the Executive any virements approved by Chief Officers or the Chief Executive.

14 Underspending and Overspending

14.1 If revenue budgets are underspent or overspent at the year end, the following applies:

- No underspending may be carried forward to the following year unless specifically authorised by the Director of Finance & Transformation. Any such amounts must be the subject of an earmarked reserve;
- Any overspending shall be reported to the Executive by the Director of Finance & Transformation in an outturn report. If in the opinion of the Director of Finance & Transformation the overspending is significant and relates to functions not the responsibility of the Executive then he/she shall also report to the appropriate Committee.

15 Supplementary Estimates

15.1 Supplementary estimates for revenue and capital expenditure will only be granted in exceptional circumstances and will be only be approved by the Full Council following a recommendation from the Executive.

15.2 In cases of urgency, with the agreement of the Leader and the Chairman of the Overview and Scrutiny Committee, the Chief Executive in consultation with the Director of Finance & Transformation may approve additional revenue or capital expenditure. The Chief Executive will report such approvals and the circumstances that made them necessary to the Executive and the Overview and Scrutiny Committee. The Executive will consider whether a virement is possible or recommend approval of a supplementary estimate.

16 Income

16.1 Arrangements for the collection of all monies due to the Council will be subject to the prior approval and control of the Director of Finance & Transformation and will be carried out in accordance with procedures issued by him/her. The circumstances of any inability to comply with procedures issued by the Director of Finance & Transformation shall immediately be reported to him/her.

16.2 The Director of Finance & Transformation shall be notified promptly of all money due to the Council and of contracts, leases, grants, external funding and other agreements and arrangements entered into that involve the receipt of money by the Council.

16.3 All money received by the Council will be banked promptly in the Council's name and in conformance with the Accounts and Audit Regulations

16.4 Money held on behalf of the Council must not be used for anything other than its intended purpose. No monies held shall be used to cash cheques except in accordance with arrangements approved by the Director of Finance & Transformation.

- 16.5 All monies received by the Council shall be acknowledged in accordance with arrangements approved by the Director of Finance & Transformation.
- 16.6 All receipts and other means of acknowledging the receipt of monies received by the Council shall be securely stored and proper records kept of all such items in a form approved by the Director of Finance & Transformation.
- 16.7 Any instructions issued by the Director of Finance & Transformation relating to the security of monies held by the Council must be adhered to.
- 16.8 Any limits on sums held for insurance purposes must be adhered to.
- 16.9 Invoices must be raised for all sums due to the Council that are not paid at the time the debt is due or identified unless the Director of Finance & Transformation approves alternative arrangements to address specific circumstances.
- 16.10 All invoices for sums due to the Council must be raised promptly.
- 16.11 Chief Officers must notify the Director of Finance & Transformation of all relevant information so that he/she can raise an invoice for sums due to the Council where for any reason this is not done by the Chief Officer.
- 16.12 Chief Officers must ensure that income received or any invoice raised by them is correctly allocated to the appropriate code.

17 Fees and Charges

- 17.1 Chief Officers are required in liaison with the Director of Finance & Transformation to review annually the fees and charges levied for services under their control unless such fees and charges are fixed by statute or by some other body. The results of such reviews and the recommendations flowing from them must be reported to the Executive for decision.
- 17.2 Any proposed reductions in fees and charges shall, following consultation with the Director of Finance & Transformation, be reported to the Executive for decision. Similar requirements apply where it is proposed to introduce new fees and charges.

18 Writing Off Debts

- 18.1 The Director of Finance & Transformation must report to the Executive on amounts owing of £5,000 or more where efforts to collect the sums have failed and any other action would be uneconomic or impractical or in the opinion of the Director of Finance & Transformation there is a valid reason for not pursuing the debt. The Executive has the authority to approve the write off of the debt.
- 18.2 The Director of Finance & Transformation, following consultation with the relevant Chief Officer where appropriate, may write off amounts of less than £5,000 if he/she thinks that further effort to collect it would be a waste of effort or resources or in his/her opinion there is a valid reason for not pursuing the debt. The Director of Finance & Transformation must report any such write-offs he/she has approved at least twice a year to the Executive.

19 Insurances and Risk Management

- 19.1 The Director of Finance & Transformation shall effect all insurance cover and negotiate all claims in consultation with other officers as necessary.
- 19.2 Chief Officers shall give prompt notification to the Director of Finance & Transformation of all new risks, properties, plant and vehicles that require to be insured and of any alterations affecting existing insurances.
- 19.3 Chief Officers shall immediately notify the Director of Finance & Transformation of any loss, liability or damage that may give rise to a claim.
- 19.4 Chief Officers shall ensure that their staff and any contractors employed on activities for which they are responsible have appropriate insurance cover in force and shall consult the Director of Finance & Transformation to determine the relevant requirements for the activities involved.
- 19.5 The Director of Finance & Transformation shall ensure compliance with statutory requirements relating to fidelity guarantee insurance.
- 19.6 The Director of Finance & Transformation shall at such periods as he/she considers necessary review all insurances held by the Council in consultation with other Chief Officers.
- 19.7 All Chief Officers shall consult the Director of Finance & Transformation in respect of any indemnity the Council is requested to give.
- 19.8 All individuals within the Council share responsibility for risk management. Any particular responsibilities of key groups and individuals will be set out in the Council's risk management strategy documentation from time to time.
- 19.9 All Chief Officers are responsible for ensuring compliance in their areas of responsibility with any Risk Management Strategies the Council may from time to time approve.

20 Inventories

- 20.1 Each Chief Officer is responsible for the safe custody of stores and equipment placed under his/her control. Wherever reasonably practicable, items shall be marked as being the property of the Borough Council.
- 20.2 All Information Technology hardware shall be recorded in a central inventory maintained for the purpose by the Information Technology Manager.
- 20.3 All records of stocks held shall be in a form approved by the Director of Finance & Transformation. Chief Officers shall ensure that the level of stock held is reasonable having regard to the nature of the service being provided through their use.
- 20.4 Chief Officers are responsible for ensuring that stocktaking is undertaken at appropriate intervals throughout the year having regard to the value of stocks under their control.

- 20.5 Chief Officers shall secure the consent of the Director of Finance & Transformation to the method of disposal to be used in the case of surplus or obsolete items.
- 20.6 Chief Officers shall provide such certificates in the form that the Director of Finance & Transformation may require in respect of the value of any stocks held by them at the end of each financial year.

21 Land Disposal

- 21.1 No negotiations for the acquisition or disposal by any means of land or buildings in Council ownership shall be undertaken other than in accordance with the Officer Delegation Rules set out in Part 3 of the Constitution.
- 21.2 Subject to any exceptions within the Officer Delegation Rules, all disposals of land or buildings must be approved by the Executive.

22 Orders for Works, Goods and Services

- 22.1 Chief Officers are responsible for ensuring that orders are:
- Placed in accordance with the tendering procedures set out in the Contracts Procedure Rules in Part 4 of the Constitution;
 - Compliant with all relevant policies of the Council;
 - Compliant with procedures issued by the Director of Finance & Transformation;
 - Placed following the financial vetting of potential contractors for all arrangements valued in excess of £100,000.
- 22.2 Orders shall be issued electronically or in hard copy format via the Council's purchase order system in a format approved by and in compliance with any procedures issued by the Director of Finance & Transformation.
- 22.3 Each Chief Officer will maintain a list of officers able to authorise orders electronically and the financial limit applying to them. A copy of this list must be supplied to the Director of Finance & Transformation and must be updated with any amendments from time to time.
- 22.4 All works, goods or services must be the subject of an official order except for:
- Supplies of utility services, e.g. gas, electricity;
 - Payments of a periodic nature such as rent or rates;
 - Items purchased via petty cash;
 - Any works goods or services which have a written contract which complies with Contracts Procedure Rules 3.2, 3.3 or 3.4.

- 22.5 The Director of Finance & Transformation may from time to time permit other items to be acquired without the issue of an official order.
- 22.6 Official orders may only be used in connection with the purchase of goods by the Council and must not be used in connection with personal transactions.
- 22.7 All purchases of Information Technology hardware and software shall only be made by the Information Technology Manager unless he/she agrees an alternative arrangement in specific circumstances.

23 Issuing of Official Orders

- 23.1 Orders must only be issued for works, goods and services where an approved budget exists for the intended purchase. Chief Officers shall ensure full compliance with these rules and any other procedures issued by the Director of Finance & Transformation.
- 23.2 Each Chief Officer shall ensure that effective procedures exist to check and certify all orders issued.
- 23.3 Each Chief Officer shall provide the Director of Finance & Transformation with a list of officers able to authorise orders and any financial limits that apply to them. A copy of all orders shall be maintained in a secure format within the corporate purchase ordering system.
- 23.4 Only documentation or electronic formats approved by the Director of Finance & Transformation may be used for official orders.
- 23.5 All Orders are contracts made by the authority and must comply in all respects with the Contracts Procedure Rules
- 23.6 Urgent Orders may be made by telephone, fax or electronically (provided that they are in accordance with the Contracts Procedure Rules) but an order number must be obtained and notified to the supplier. An order must still be completed and clearly marked as being for "CONFIRMATION"
- 23.7 In every case, Chief Officers must ensure compliance with any procedures issued by the Director of Finance & Transformation in relation to accounting for Value Added Tax, Construction Industry Tax and any other taxes that may be applicable.

24 Payment of Invoices

- 24.1 Each Chief Officer shall ensure that within his/her Service effective procedures exist to check and certify all invoices received for payment.
- 24.2 Each Chief Officer shall provide the Director of Finance & Transformation with a list of officers authorised to certify invoices and claims for payment and any financial limits attached.
- 24.3 Only documentation approved by the Director of Finance & Transformation may be used in connection with the processing of payments.

- 24.4 The following checks must be made prior to payment by Chief Officers or their authorised officers:
- The work, goods or services have been received or carried out and conform to what was ordered. If payment in advance is required, confirmation from the supplier of receipt of payment must be obtained.
 - The prices, calculations, trade discounts, other allowances, credits, construction Industry tax and VAT are correct.
 - Any goods supplied have been entered on inventories, stores or other appropriate records.
 - Details of the intended payment shall be checked against the details of goods ordered and received, either on a copy of the order or to the entries held electronically within the purchase order and payment systems.
 - The Council has not previously paid the invoice and that it is the Council's responsibility to make payment.
- 24.5 Chief Officers must ensure that the correct accounting code is used when making payment.
- 24.6 Chief Officers must ensure that undisputed invoices are processed without delay to obtain any prompt payment discounts and to meet the Council's targets for the prompt payment of invoices and to avoid statutory penalties arising from late payment.
- 24.7 Prior to payment, all invoices must be appropriately certified by the Chief Officer or a person authorised by him/her. This cannot be the same person as has conducted the checks required at 24.4 above.
- 24.8 Chief Officers shall, as soon as possible after 31 March each year, and no later than a date specified by the Director of Finance & Transformation, notify the Director of Finance & Transformation of any payments outstanding for works, goods or services supplied before the 31 March and comply with all other requirements of the Director of Finance & Transformation in connection with the production of the annual accounts of the Council.

25 Financial Management of Contracts

- 25.1 Where there is a variation to a contract that results in a change to the cost to the Council then that change must comply with the requirements of the Contracts Procedure Rules at rule 14.
- 25.2 Where there is a change to the contract resulting in a different cost to the Council the Chief Officer shall ensure that a priced Variation Order or priced Architects or Engineers Instruction has been issued prior to the work being carried out. For the avoidance of doubt, Variation Orders are not only required where the cost to the Council has increased but also where it has decreased.
- 25.3 The provision in 25.2 shall not have effect in the case of additional work necessary to maintain the continuity of the contract or in an emergency to protect the safety of an

officer, workman, the public or the fabric of a structure. In these circumstances the Chief Officer shall ensure that a priced Variation Order or priced Architects Instruction is issued promptly after the work has been carried out.

- 25.4 Interim payments to contractors and consultants in the case of contracts exceeding £100,000 in value shall be made only where the contract provides for them and only on a certificate issued by the relevant Chief Officer or consultant (where one has been engaged). Payments must not be made to anyone other than the Contractor unless agreed with the Director of Finance & Transformation or unless the Council is directed to make a payment by a Court or a Receiver appointed by a Court.
- 25.5 Variations to a contract shall be authorised in writing on a sequentially numbered form by the appropriate Chief Officer or the nominated Architect or Engineer in the contract, or by a consultant where engaged.
- 25.6 Claims from a contractor not clearly within the terms of any existing contract shall be referred by Chief Officers to both:-
- (a) the Director of Central Services and Monitoring Officer for consideration of the Authority's legal liability; and
 - (b) the Director of Finance & Transformation for financial consideration before a settlement is made.
- 25.7 Where a claim for liquidated damages arises the Chief Officer concerned will consult both the Director of Central Services and Monitoring Officer and the Director of Finance & Transformation in order to determine the appropriate action to be taken.
- 25.8 Chief Officers must provide a report to the Council or Executive, as appropriate, explaining the circumstances in any case where the value of the final account for a contract is greater than £100,000 and exceeds the accepted tender sum by an amount greater than 5% of the tender sum.

26 Partnership

- 26.1 The Council defines a partnership as “an agreement between the Council and one or more independent bodies to work together to achieve one or more objectives.” Partnerships may help deliver strategies and improve the well-being of the area. They may spread risk, access resources and provide new and better ways of delivering services.
- 26.2 When entering into a partnership the Council will ensure such agreements are fully documented with terms and conditions covering:
- Provision and allocation of funding and resources
 - Appraisal and reporting systems
 - Risk management provisions
 - Audit and security controls
 - Accounting arrangements
 - Exit strategy
 - Vires

27 Working for Third Parties

Where work is carried out by the Council for third parties arrangements will be put in place to ensure such work is intra vires and that the risks involved are managed.

28 Payment of Salaries and Members' Allowances

- 28.1 The Director of Central Services is responsible for ensuring that all salaries and matters relating thereto are in accordance with the policies and decisions of the Council.
- 28.2 The Director of Finance & Transformation is responsible for the calculation and payment of salaries to the Council's employees and for the payment of approved allowances to Council Members.
- 28.3 Chief Officers must provide the Director of Central Services with full details of:
- any new employees of the Council;
 - anyone leaving the Council's employment;
 - anyone who is transferred to other Council Services;
 - anyone whose pay changes other than by salary awards or annual increments; and
 - any other information that may affect the amount of the payment they are entitled to receive.
- 28.4 Chief Officers must notify the Director of Finance & Transformation of anyone who is absent through sickness or reasons other than annual leave using the form approved by the Director of Finance & Transformation.
- 28.5 The Director of Finance & Transformation must approve the design of all time records or other pay documents. Chief Officers must send the names and signatures of all the employees who are authorised to sign these records, together with any limits applied, to the Director of Finance & Transformation.
- 28.6 All staff classed as temporary or casual by their contract of employment must be required to complete a monthly timesheet, except in the case of illiteracy when the line manager must complete the timesheet and indicate that they have done so.
- 28.7 All payments of salaries and Members' allowances shall be paid direct to a bank or building society account using BACS or any similar method determined by the Director of Finance & Transformation unless he/she approves alternative arrangements in specific cases.

29 Security

- 29.1 Chief Officers are responsible for maintaining proper security at all times for all buildings, property, cash and other assets under their control. Chief Officers shall

consult the Director of Finance & Transformation in any case where security is thought to be defective or where it is considered that special security arrangements may be needed. Chief Officers must ensure that their staff are aware of any requirements relating to the security of cash and equipment in transit or held at an employee's home.

- 29.2 Maximum limits for cash holdings shall be agreed with the Director of Finance & Transformation having regard to the level of security appropriate for staff and premises. The limit shall not be exceeded without his/her permission.
- 29.3 Chief Officers are responsible for maintaining the security and privacy of information held on computer systems under their control and are responsible for compliance with relevant legislation and the Council's adopted Information Security Policy.
- 29.4 The Director of Central Services and Monitoring Officer is responsible for the safe custody of all legal documents relating to the activities of or interests of the Council.

30 Taxation

- 30.1 The Director of Finance & Transformation is authorised to make any decision or determination with regard to any taxation issue that he/she considers necessary for the overall tax efficiency of the Council.
- 30.2 The Director of Finance & Transformation will account for and pay or recover all taxes on behalf of the Council.

31 Travelling and Subsistence Allowances

- 31.1 All claims of employees for payment of car allowances, subsistence allowances, travelling and incidental expenses must be submitted, together with any supporting documentation and records required, in accordance with such procedures as may be issued by the Director of Finance & Transformation. Reimbursement will normally be made with the employee's next normal salary payment unless the Director of Finance & Transformation decides that an alternative method of payment is appropriate.

32 Treasury Management

- 32.1 The Director of Finance & Transformation is responsible for undertaking all borrowing of monies and for all arrangements concerning the investments of the Council.
- 29.2 In exercising his/her treasury management responsibilities, the Director of Finance & Transformation shall comply with the Council's Treasury Management Strategy Statement and Annual Investment Strategy and Treasury Policy Statement and the Chartered Institute of Public Finance and Accountancy Code of Practice on Treasury Management.

TONBRIDGE AND MALLING BOROUGH COUNCIL

Contracts Procedure Rules (“CPR”)

1 Introduction – Purpose of the Contracts Procedure Rules

- 1.1 Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contracts Procedure Rules is to provide a structure within which purchasing decisions are made and implemented and which ensure that the Council:
- 1.1.1 Furthers its corporate objectives
 - 1.1.2 Uses its resources efficiently
 - 1.1.3 Purchases quality goods, services and works
 - 1.1.4 Grants service concessions to concessionaires who provide quality services
 - 1.1.5 Safeguards its reputation from any implication of dishonesty or corruption.
- 1.2 Purchasing by the Council, from planning to delivery, shall incorporate (where appropriate) principles of sustainability, equality, efficiency, whole life costs and cost savings.
- 1.3 These Contracts Procedure Rules are made in accordance with the requirements of Section 135 of the Local Government Act 1972.
- 1.4 These Contracts Procedure Rules do not provide guidelines on what is the best way to purchase works, supplies (goods), and services and to grant concessions contracts, they set out minimum requirements to be followed. Further information and guidelines are set out in the Council’s Purchasing Guide which must be followed.

2 General Principles – Application and Compliance with Contracts Procedure Rules

- 2.1 These Contracts Procedure Rules apply to the purchase by or on behalf of the Council of works, supplies (goods), services and the grant of service/works concessions.
- 2.2 These Contracts Procedure Rules apply to all contracts including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council, except for the specific types of contracts and purchasing methods which are listed in CPR 2.3.
- 2.3 These Contracts Procedure Rules do not apply to:
- 2.3.1 Employment contracts
 - 2.3.2 Contracts relating solely to the purchase or sale of interests in land

- 2.3.3 Contracts for retention of legal counsel or solicitors and for the appointment of expert witnesses in legal proceedings
- 2.3.4. Service level agreements setting out the conditions which the Council applies to its funding of particular voluntary sector bodies
- 2.3.5 Subject to CPR 12.6 contracts for the sale of equipment goods or recycled commodities provided that best value is obtained.

3 General Principles Applying to All Contracts

For the purposes of this CPR 3, the term “contract” means purchase orders, order forms, standard industry contracts (for example JCT, IEE, ICE, RIBA etc.), terms and conditions relating to works, services, supplies or the grant of service/works concessions and the term “contractor” includes “concessionaire”.

- 3.1 All purchases however small shall be evidenced in writing.
- 3.2 Subject to CPR 3.4 below, standard contract clauses shall be used in all contracts of a value of £100,000 or more unless the Council is using a Framework Contract in which case rule 3.2.5 below will apply;
 - 3.2.1 For Service Contracts the standard contract clauses are issued by the Director of Central Services and Monitoring Officer and can be found on the Council’s share drive at ‘H:\share\Procurement\WebFiles\Staffnet\Core.doc’
 - 3.2.2 For works contracts or professional service contracts the standard contract clauses should be the latest edition of standard printed form contracts such as JCT IEE ICE or RIBA contracts as appropriate
 - 3.2.3 For supply contracts the standard terms and conditions can be found in Appendix 1 to the Purchasing Guide.
 - 3.2.4 In all cases the standard contract clauses must be modified to suit the particular contract in consultation with the Director of Central Services and Monitoring Officer or other professional advisors
 - 3.2.5 If the terms of the purchase have already been set by a Framework Agreement the relevant Chief Officer shall consider the suitability of such terms in consultation with the Director of Central Services and Monitoring Officer or other professional advisors and shall ensure that the minimum requirements for contract clauses set out in rule 3.3 below are included within such terms.
- 3.3 Subject to CPR 3.4 below, as a minimum, all contracts of a value of £5,000 or more shall include clauses in the format contained in Appendix 1 to the Purchasing Guide or shall set out:
 - 3.3.1 The works, supplies (goods), services, service concession, material, matters or things to be carried out or supplied and the price to be paid for them or in the

- case of a service/works concession to be paid to the Council in return for the exploitation right
- 3.3.2 The time within which the contract is to be performed including any proposed extension to it and the terms on which it may be extended
 - 3.3.3 Quality requirements and/or standards which must be met
 - 3.3.4 Requirements on the contractor to hold and maintain appropriate insurance(s)
 - 3.3.5 What happens in the event that the contractor fails to comply with its contractual obligations (in whole or in part)
 - 3.3.6 Requirements on the contractor to comply with all relevant equalities and health and safety legislation and all other legislation relevant to the contract
 - 3.3.7 That the Council shall be entitled to cancel the contract and recover losses in the event that the contractor does anything improper to influence the Council to give the contractor any contract or commits an offence under the Bribery Act 2010 or s117(2) Local Government Act 1972.
 - 3.3.8 That the contract is to be governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.
- 3.4 The terms of all information technology contracts for software or support services of a value over £5,000 shall either include clauses in the format contained at Appendix 1 to the Purchasing Guide or be approved by the relevant Chief Officer in consultation with the Information Technology Manager and the Director of Central Services and Monitoring Officer.
- 3.5 Written contracts shall not include non commercial terms unless these are necessary to achieve best value for the Council or are included in accordance with the Public Services (Social Value) Act 2012 or necessary to enable or facilitate the Council's compliance with the Public Sector Equality Duty or any duty imposed on it by the Equality Act 2010. In this rule, "non-commercial" means requirements unrelated to the actual performance of the contract.
- 3.6 All contracts shall include relevant specifications and/or briefs/technical requirements which are prepared taking into account the need for effectiveness of delivery, quality, sustainability and efficiency (as appropriate) and the information set out in the Council's Purchasing Guide.
- 3.7 All contracts which involve a substantial risk to the Council must be subject to a written risk assessment, which should be kept on the contract file.

3.8 All contracts subject to the Public Contracts Regulations 2015 (“EU rules”) will include:

3.8.1 Additional termination clauses pursuant to Regulation 73 of the EU rules exercisable in relation to a substantial modification of the contract requiring a new procurement process, situations requiring the mandatory exclusion of the contractor and infringement of obligations of the EU rules declared by the court of justice of the European Union.

3.8.2 Payment clauses pursuant to Regulation 113 of the EU Rules relating to payment of invoices no later than the end of the period of 30 days from the date on which the relevant invoice is regarded as valid and undisputed.

4 Regulatory Context

4.1 All purchasing shall be conducted in accordance with Regulatory Provisions which are:

4.1.1 All relevant statutory provisions

4.1.2 The relevant EU Rules and EC Treaty Principles which are defined in the Council’s Purchasing Guide

4.1.3 The Council’s Constitution including these Contracts Procedure Rules, the Council’s Financial Procedure Rules and Scheme/s of Delegation

4.1.4 The Council’s Purchasing Guide and other policies and procedures of the Council as appropriate.

4.2 In the event of conflict between the above, the EU Rules will take precedence, followed by UK legislation, then the Council’s Constitution, the Council’s Purchasing Guide and guidelines, policies and procedures.

5 Responsibilities of Chief Officers and Responsible Officers

5.1 Each Chief Officer shall:

5.1.1 be responsible for the purchasing undertaken by his/her Service and ensuring there are no conflicts of interest for staff either involved in the conduct of purchasing or who may influence the outcome of the purchasing procedure which might be perceived to compromise their impartiality and independence in the relevant purchasing procedure.

5.1.2 be accountable to the Executive for the performance of his/her duties in relation to purchasing

5.1.3 comply with the Council’s decision making processes including, where appropriate, implementing and operating a Scheme/s of Delegation

- 5.1.4 appoint a Responsible Officer in writing who shall be an authorised signatory (see CPR 5.2 below)
 - 5.1.5 take immediate action in the event of breach of these Contracts Procedure Rules.
- 5.2 A Responsible Officer is an officer with responsibility for conducting purchasing processes for the purchase of works, supplies (goods) services or the grant of service/works concessions on behalf of the Council who has been authorised in writing by a Chief Officer to carry out those procurement tasks which the Chief Officer has authority to perform in accordance with the Council's Scheme of Delegations in Part 3 of the Constitution and these Contracts Procedure Rules.
- 5.3 A Responsible Officer's duties in respect of purchasing are to ensure:
- 5.3.1 compliance with all Regulatory Provisions and integrity of the tender process
 - 5.3.2 compliance with the relevant statutory provisions and the Council's requirements relating to declarations of interest affecting any purchasing process
 - 5.3.3 that there is an appropriate analysis of the requirement, timescales, procedure and documentation to be used
 - 5.3.4 the purchasing process, from planning to delivery incorporates (where appropriate) principles of sustainability, efficiency, whole life costs and cost savings
 - 5.3.5 compliance with the Council's decision making processes
 - 5.3.6 that all contract opportunities/awards of a value of £5,000 or more are included on the Council's Contract Register and that in addition those valued at £25,000 or more are uploaded onto the Cabinet Office's nominated web-based portal which is currently "Contracts Finder".
 - 5.3.7 that proper records of all contract award procedures, waivers, exemptions and extensions are maintained, for each purchase of a value of £5,000 or more to keep a record of all decisions taken at each stage of the procurement process.
 - 5.3.8 that value for money is achieved
 - 5.3.9 that adequate and appropriate security (such as a bond or guarantee) is taken to protect the Council in the event of non-performance as deemed necessary
 - 5.3.10 that risk assessments are undertaken in respect of all contracts and where there is a significant risk identified

a written risk assessment is carried out and kept on the contract file.

5.3.11 that staff involved in a purchasing process have no financial economic or personal interest which might be perceived to compromise their impartiality and independence in connection with the purchasing procedures undertaken.

5.4 In considering how best to procure works, supplies, services and the granting of service/works concessions, Chief Officers and/or Responsible Officers (as appropriate in the context) shall take into account wider contractual delivery opportunities and purchasing methods including the use of Purchasing Schemes and e-procurement/purchasing methods, and the availability of local authority charging and trading powers under the Local Government Act 2003.

5.5 It is a disciplinary offence to fail to comply with these Contracts Procedure Rules and the Council's Purchasing Guide. All employees have a duty to report breaches of Contracts Procedure Rules to the relevant Chief Officer, the Audit and Counter Fraud Manager and the Monitoring Officer.

5.6 Any officer or Member who suspects any misconduct or corruption in relation to the purchase by or on behalf of the Council of works, supplies (goods) and services or grant of a service/works concession must immediately report that suspicion to the Chief Executive, Director of Finance & Transformation, Monitoring Officer or to the Audit and Counter Fraud Manager in accordance with the Council's Whistle Blowing Policy.

6 Scheme/s of Delegation

6.1 Council procurement may only be undertaken by Chief Officers or by an officer authorised in writing by a Chief Officer to exercise powers on his/her behalf in accordance with the Council's Scheme of Delegations in Part 3 of the Constitution and these Contracts Procedure Rules. Chief Officers have authority to procure and purchase services supplies works and grant service/works concessions for which there is an authorised budget and which are purchased in accordance with these Contracts Procedure Rules.

6.2 Chief Officers may take any procurement decision which is administrative in nature or where there is discretion to be exercised by the Council save to the extent that such decision is reserved to the Executive under these Contracts Procedure Rules.

6.3 Officers shall, where appropriate, be informed by their Chief Officer of the extent of any delegated authority and applicable financial thresholds.

7 Financial Thresholds and Procedures

7.1 The table below sets out the general rules applying to the choice of purchasing procedure for contracts at the stated threshold values.

- 7.2 There is a general presumption in favour of competition. Wherever possible contract opportunities should be advertised by way of a public notice. The Council must consider the potential effect of a contract on interstate trade (at a European level). If a contract (e.g. a service or works concession) may be of interest to contractors from other member states then this may result in a need to advertise in a manner which ensures that potential contractors from other member states are aware of the opportunity, even for small value contracts or contracts under the EU threshold levels outlined in the table at CPR 7.7 below.
- 7.3 The public notice referred to at CPR 7.2 may take the form of a notice or advertisement in an electronic or paper format, on an easily accessible website or other electronic media and/or in the press, trade journals or Official Journal of the European Union (“OJEU”) (as appropriate). The Responsible Officer may choose to place one or more public notices in different media.
- 7.4 Where a contract valued above £25,000 is advertised, the advert will be published on Contracts Finder (in addition to or instead of any other portal or publications which the Responsible Officer may use).
- 7.5 Once a contract valued at above £25,000 has been awarded as a result of any procurement process, details of the winning tender, the contract value and the date on which the contract is entered into must be published on Contracts Finder.
- 7.6 Where contracts are of a type and value which means that they are subject to the EU Rules then there are six main types of EU procedure available. These are the open, restricted, competitive dialogue, competitive procedure with negotiation, negotiated procedure without prior publication of a notice and innovation partnerships. Care must be taken to ensure that the correct and most appropriate procedure is used. Assistance on the choice and use of any EU procedure should be sought from Legal Services or external consultants. Alternatively where there is a suitable Purchasing Scheme available this may be used subject to the requirements of CPR 15 below.

7.7 Table setting out financial thresholds and procedures

Total Value £	Type of Contract	Procedure to be used
Up to but not including— 5,000	Works, supplies, services and concessions	At least one quote in advance value for money must be obtained
5,000 up to but not including 100,000	Works, supplies, services and concessions	At least three written quotes in advance, one to be from a local supplier** where possible. Advertisement required if likely to be of interest to non-domestic providers (cross-border interest)
100,000 up to but not including— 181,302*	Works, supplies, services and concessions	At least three written tenders in advance one to be from a local supplier** where possible. Advertisement required if likely to be of interest to non-domestic providers (cross-border interest)
181,302* and above	Supplies, services excluding Light Touch Regime Services (LTR defined below) and service concessions	EU Rules apply to supplies and services excluding Light Touch Regime Services Full competitive process following advertisement in the OJEU for supplies and non-LTR services. For service concessions advertisement only required if likely to be of interest to non-domestic providers (cross-border interest)

Up to but not including 615,278*	LTR services (cultural or other community services listed in Schedule 3 to EU Rules)	Reduced requirements apply under the EU Rules but there is a presumption in favour of advertising and a competitive process.
615,278* and above	LTR services	Advertise in the OJEU as LTR Service
181,302* up to but not including 4,551,413*	Works and works concessions	Full competitive process with tenders following advertisement by public notice
4,551,413* and above	Services/Works concessions and Works Contracts	Relevant EU rules apply full competitive process with tenders following OJEU advertisement

* Or relevant threshold in force at the time for that type of contract under the EU Rules. The Director of Central Services and Monitoring Officer shall have authority to amend any of the financial thresholds within this table in consequence of changes to such thresholds from time to time

** For these purposes a local supplier means a supplier which has its principal place of business or an office in Kent.

8 Financial Thresholds and Processes Applying to Approval and Execution of Contracts

- 8.1 For Service and supply (goods) contracts valued at or over the relevant EU threshold (in force at the time) and for works contracts and service/works concession contracts which are valued at or over the EU Services/Supply threshold (excluding LTR Services) (in force at the time) the choice of procedure to be used and the decision to proceed to advertisement must be authorised by the Executive in advance. In all other cases the relevant Chief Officer has delegated authority to choose the procedure to be used and to advertise as set out in the table at CPR 7.7 above and/or to carry out the entire procurement process in accordance with the Council's Constitution
- 8.2 When a decision is made to award a contract then the Responsible Officer must, in addition to complying with his/her general obligations under these Contracts Procedure Rules ensure, in particular, that:
- 8.2.1 the appropriate approvals have been obtained to authorise that decision (see CPR 12.4 and 12.5 below); and
 - 8.2.2 where appropriate, a standstill period complying with the EU Rules is incorporated into the final award process.
- 8.3 Any contracts valued at £100,000 or above shall be executed as a deed. Officers with the appropriate delegated authority may sign other contracts. £10,000 shall be the threshold for the purposes of Regulation 8 of the Local Authority (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001.
- 8.4 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Council's Information Technology Manager.

9 Calculating the Contract Value

- 9.1 The starting point for calculating the contract value for the purposes of these Contracts Procedure Rules is that the contract value shall be the genuine pre-estimate of the value of the entire contract excluding Value Added Tax. This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options). In the case of a service/works concession these principles will apply and the value will be the genuine pre-estimate of the value to the concessionaire of the exploitation rights for the entire contract duration excluding Value Added Tax. Where the contract is a rolling service contract which does not specify a contract period or end date, the contract period shall notionally be taken to be 4 years for the purpose of calculating the contract value to apply these Contracts Procedure Rules.
- 9.2 There shall be no artificial splitting of a contract to avoid the application of the provisions of the EU Rules and/or these Contracts Procedure Rules.

- 9.3 The EU Rules can cover contracts which are below the stated EU threshold where they constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice on the application of the EU Rules where they envisage that they may require repeat purchases and/or purchases of a similar type.

10 Principles Underlying Tendering Processes and Tender Evaluation

- 10.1 All tendering procedures (including obtaining quotes), from planning to contract award and signature, shall be undertaken in a manner so as to ensure:
- 10.1.1 Sufficient time is given to plan and run the process
 - 10.1.2 Equal opportunity and equal treatment
 - 10.1.3 Openness and transparency
 - 10.1.4 Probity
 - 10.1.5 Outcomes which deliver equality / efficiency, and where possible and appropriate, cost savings, sustainability, and social value.

11 Submission and Opening of tenders

- 11.1 An Invitation to Tender shall be issued by the Council for all contracts over £100,000 and tenders shall be submitted in accordance with the requirements of the Invitation to Tender.
- 11.2 Any tenders received (other than those received electronically, to which rule 11.3 below shall apply) shall be:
- 11.2.1 contained in a plain envelope which is securely sealed and bears the completed tender envelope address label sticker supplied by the Council
 - 11.2.2 free from any distinguishing mark or matter which identifies the sender
 - 11.2.3 kept in a safe place by the Council's Director of Central Services
 - 11.2.4 retained unopened until the date and time specified for its opening.
- 11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:
- 11.3.1 addressed to the e-mail address as notified in the Invitation to Tender
 - 11.3.2 in the format specified in the Invitation to Tender

- 11.3.3 stored in a secure mailbox or any other secure system, which requires a code or other appropriate security measure, to open it
- 11.3.4 retained unopened until the date and time specified for its opening.
- 11.4 No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the Chief Executive in consultation with the Monitoring Officer is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply and the other tenders have not been opened.
- 11.5 Tenders shall be opened by the Director of Central Services and the Audit and Counter Fraud Manager or their representatives in the presence of an officer from the relevant service conducting the procurement and an immediate record shall be made of tenders received, tenderers names and addresses, the date and time of opening and a record of the officers present.

12 Evaluation of Quotes and Tenders and award of Contract

- 12.1 All quotes and tenders shall be evaluated in accordance with evaluation criteria notified in advance to those submitting quotes/tenders.
- 12.2 Tenders subject to the EU Rules shall be evaluated in accordance with the EU Rules.
- 12.3 Save in exceptional circumstances approved in advance by the Executive all contracts shall be awarded on the basis of the quote or tender which represents the most economically advantageous tender to the Council and not on the basis of lowest price.
- 12.4 All supply (goods) or works contracts which are valued below the EU supply threshold (in force at the time) and for service contracts which are valued at below the relevant EU service threshold for that type of service contract may be awarded by the relevant Chief Officer by applying the relevant evaluation and award criteria which have been previously set provided that there is an approved budget and the procurement has been conducted in accordance with these Contracts Procedure Rules.
- 12.5 All service or supply (goods) contracts valued at or over the relevant EU threshold (in force at the time) works contracts and service/works concessions valued at or over the EU supply threshold shall be awarded by the Executive (in the case of Executive business) or Council (in the case of Council business) following a report by the relevant Chief Officer(s) on the tenders received by applying the relevant tender evaluation and award criteria which have been previously set. Alternatively such decision shall be delegated to named officers or officers in consultation with members by the Executive (in the case of Executive business) or Council (in the case of Council business).
- 12.6 All contracts for the sale of equipment goods or recycled commodities which are valued over their life at in excess of the current EU supply tendering

threshold set out in the table at CPR 7.7 shall be subject to endorsement by members of the procurement process undertaken and the award decision before the contract is entered into.

13 Waivers

13.1 In all cases subject to the approval being given in CPR 13.3.3 below and the correct process in CPR 13.2, 13.3 and 13.4 being followed the requirement for the Council to conduct a competitive purchasing process for contracts in excess of £5,000 may be waived in the following circumstances.

13.1.1 For contracts which are not subject to the EU Rules, the work, supply service or grant of service/works concession is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property; or

13.1.2 the circumstances set out in the EU Rules (Regulation 32) apply (whether or not the contract is of a type which is subject to the application of the EU Rules); or

13.1.3 the contract is awarded under a Purchasing Scheme of a type where a competition has already been undertaken on behalf of the Council provided that the particular Purchasing Scheme requirements are followed; or

13.1.4 at the discretion of the relevant Chief Officer who may proceed in a manner most expedient to the efficient management of the Service/Council with reasons recorded in writing.

13.2 A Responsible Officer, whom seeks a waiver of Contracts Procedure Rules, shall do so only in advance and only in exceptional circumstances. Further guidance on what may constitute exceptional circumstances permitting waiver of these Contracts Procedure Rules is set out in the Council's Purchasing Guide.

13.3 All waivers from these Contracts Procedure Rules must be:

13.3.1 Fully documented

13.3.2 Subject to a written report to be submitted in advance to the Chief Executive, the Director of Finance & Transformation and the Monitoring Officer which shall include reasons for the waiver which demonstrate that the waiver is genuinely required and that exceptional circumstances exist

13.3.3 Subject to approval in advance by the officers referred to in 13.3.2 above who shall record that they have considered the reasons for the waiver and that they are satisfied that the waiver can be granted. Applications

for waiver which are a result of poor contract planning will not usually be approved.

- 13.4 All decisions on waivers must take into account:
 - 13.4.1 Probity
 - 13.4.2 Best value/value for money principles.
- 13.5 For contracts subject to the EU Rules, any waiver from the requirement for competition must meet the conditions set out in the EU Rules in addition to the general requirements above in CPR 13.1 to 13.4 and in particular regulation 32 of the EU rules.
- 13.6 For those Contracts valued at £100,000 or more the relevant Chief Officer shall report the waiver to the next appropriate meeting of the Executive or Council.

14 Extensions or Modifications to Existing Contracts

- 14.1 Subject to CPR 14.5 and 14.6 below an extension to the duration of an existing contract or a modification to it may be implemented if specifically provided for in the original contract and shall be for the specified period and on the specified terms.
- 14.2 Subject to CPR 14.5 and 14.6 below extensions to the duration and/or modifications to existing contracts such as the inclusion of additional services shall be:
 - 14.2.1 Made in accordance with any statutory restrictions and any specific terms of the contract
 - 14.2.2 Fully documented
 - 14.2.3 Subject to a written report to be submitted to the relevant Chief Officer for the Service which shall include reasons for the extension or modification which demonstrate that the need for the extension or modification is required in the best interests of the Council and that CPR 14.1 to 14.5 below have been complied with
 - 14.2.4 Subject to approval by the relevant Chief Officer for the Service who shall record that they have considered the reasons for the extension and that they are satisfied that there are circumstances justifying the extension and that CPR 14.1 to 14.5 below have been complied with.
- 14.3 Subject to CPR 14.6 below any extension to an existing contract may be determined by the relevant Chief Officer provided that there is an authorised budget and that CPR 14.1 to CPR 14.5 have been complied with. The reasons for the decision must be fully documented.

- 14.4 Subject to CPR 14.6 below any extension must take into account:
- 14.4.1 Probity
 - 14.4.2 Best value/value for money principles.
- 14.5 For contracts subject to EU Rules, any extension or modification to an existing contract must meet the conditions set out in the EU Rules and in particular regulation 72 of the Public Contracts Regulations 2015 in addition to the more general requirements set out above.
- 14.6 This rule 14 does not apply to an extension of time under a standard JCT/ICE works Contract or their equivalent where the extension is permitted in the Contract due to the occurrence of unforeseen events. Such an extension should be dealt with in accordance with the terms of the particular contract.
- 14.7 Where the extension or modification is to a Contract originally valued at in excess of the thresholds applicable to EU Contracts as set out in the table at CPR 7.7 above the Chief Officer responsible for the relevant Service shall report the extension or modification to the next convenient meeting of the Executive.

15 Purchasing Schemes

- 15.1 A Responsible Officer may use Purchasing Schemes subject to the following conditions and the Council's Purchasing Guide.
- 15.2 Responsible Officers must check in advance that
- 15.2.1 The Council is legally entitled to use the Purchasing Scheme
 - 15.2.2 The purchases to be made do properly fall within the coverage of the Purchasing Scheme
 - 15.2.3 The establishment and operation of each Purchasing Scheme is in compliance with the EU Rules (where they apply) and meets the Council's own requirements.
 - 15.2.4 A waiver is obtained under CPR 13 above to use the Purchasing Scheme in accordance with that rule or where the contract is above the relevant EU threshold for that type of contract (as referred to in regulation 5 of Public Contract Regulations 2015) that Member authorisation under CPR 8.1 is obtained to use the Purchasing Scheme.
- 15.3 A "Purchasing Scheme" may include:
- 15.3.1 Contractor prequalification lists/select lists
 - 15.3.2 Framework arrangements (including those set up by the Crown Commercial Service or any successor body)

- 15.3.3 Purchasing arrangements set up by central purchasing bodies and commercial organisations
 - 15.3.4 Consortium purchasing
 - 15.3.5 Collaborative working arrangements
 - 15.3.6 Formal agency arrangements
 - 15.3.7 E-procurement/purchasing schemes and methods
 - 15.3.8 Other similar arrangements.
- 15.4 Where a Purchasing Scheme is used then there shall be a whole or partial exemption from the obligations under these Contracts Procedure Rules in respect of the choice and conduct of procedures to the extent permitted and indicated in the Council's Purchasing Guide.

16 Review and Changes to these Contracts Procedure Rules

- 16.1 These Contracts Procedure Rules shall be reviewed and updated on a regular basis. Save in the case of revisions to the EU Thresholds which are set out in the table at CPR 7.7, amended Contracts Procedure Rules shall be agreed and adopted by full Council. Revisions to the EU Thresholds in the table at CPR 7.7 or amendments consequential on such changes shall be dealt with by the Director of Central Services and Monitoring Officer who may amend such thresholds with effect from the date when new thresholds are introduced by any legislation.
- 16.2 The Director of Central Services and Monitoring Officer may amend the Purchasing Guide to reflect case-law, changes in law and statutory guidance issued in relation to procurement practises and procedures and to reflect any changes made to these rules which have been authorised by Council or otherwise under these rules.

17 Suspension of these Contracts Procedure Rules

- 17.1 These Contracts Procedure Rules may be suspended on the authority of the Chief Executive, Head of Paid Service and the Monitoring Officer for reasons of expediency and/or efficiency which are in the best interests of the Council and any such suspension shall be reported to the next appropriate meeting of the Executive.

OFFICER EMPLOYMENT PROCEDURE RULES

1. Recruitment and appointment

1.1 Declarations

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

1.2 Seeking support for an appointment

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

2. Recruitment of Head of Paid Service and Chief Officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- 2.1 Draw up a statement specifying:
 - (a) The duties of the officer concerned; and
 - (b) Any qualifications or qualities to be sought in the person to be appointed;
- 2.2 Make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 2.3 Make arrangements for a copy of the statement mentioned in paragraph 2.1 to be sent to any person on request.

3. Appointment of Chief Executive

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

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

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

5. Other appointments

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

6. Disciplinary action against certain post holders

- 6.1 A relevant officer* may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended) is complied with.

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

- 6.2 Council Members will not be involved in the disciplinary action against any officer below chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of action taken under those procedures.

7. Dismissal

Councillors will not be involved in the dismissal of any officer below chief officer, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

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

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

**PROVISIONS TO BE INCORPORATED INTO STANDING ORDERS
RELATING TO STAFF**

1. In this Part -

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"executive" and "executive leader" have the same meaning as in Part 1A of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against -

- (a) the officer designated as the head of the authority's paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. - (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him.

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

(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.

5. - (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

(2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointor until -

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

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

(i) the name of the person to whom the appointor wishes to make the offer;

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

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

(c) either -

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

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

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

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

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

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

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

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

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

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

(c) either -

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

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

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

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

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

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

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

1. In the following paragraphs—

(a) “*the 2011 Act*” means the Localism Act 2011(b);

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

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

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

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

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

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

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

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

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

5. Subject to paragraph 6, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 3 in accordance with the following priority order—

(a) a relevant independent person who has been appointed by the authority and who is a local government elector;

(b) any other relevant independent person who has been appointed by the authority;

(c) a relevant independent person who has been appointed by another authority or authorities.

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

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

- 8.** Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.

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

Commented [AP1]: Will need to ensure that the Petition Scheme on the website is amended to reflect these changes for consistency.

PETITION SCHEME

The Borough Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out how the petition is to be dealt with. We will treat something as a petition if it is identified as being a petition or if it seems to us that it is intended to be a petition.

Paper petitions can be sent to:-

- Democratic Services, Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, ME19 4LZ

Alternatively, in electronic form if created, signed and submitted online by following the procedure set out on the Council's website.

Petitions can also be presented to a meeting of the Council. These meetings take place on a regular basis and dates and times are published by Notice and on the Council's website. To present a petition to the Council in person, or to request your Councillor or someone else to present it on your behalf, please contact our Democratic Services team on:

committee.services@tmbc.gov.uk or 01732 876023/01732 876025 at least 10 working days before the meeting and they will talk you through the process.

What are the guidelines for submitting a petition?

Petitions submitted to the Council must include:-

- a clear and concise statement covering the subject of the petition . It should state what action the petitioners wish the Council to take
- the name and address and signature of the persons supporting the petition
- a closing date should be set by the petition organiser. Where no closing date has been identified, the Borough Council will set this as six weeks from the date the petition was received.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the Council's website.

If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

What will the Council do when it receives my petition?

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a Council [or Cabinet debate \(as appropriate depending on whether the matter relates to an Executive or Council responsibility\)](#), or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as Council tax banding and non-domestic rates, other procedures apply and the matter will be dealt with accordingly. Further information on all these procedures and how you can express your views is available on our website.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Wherever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect

to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

How will the Council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:-

- taking the action requested in the petition
- considering the petition at a Council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the Council's Overview and Scrutiny Committee*
- calling a referendum
- writing to the petition organiser setting out our views on the request in the petition

*The Overview and Scrutiny Committee is a committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in a petition.

The Council's response to a petition will set out the steps we intend to take and the reasons for taking this approach.

If the petition is about something over which the Council has no direct control we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to the petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.

You can find more information on the services for which the Council is responsible on our website.

If the petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Full Council/ Cabinet debates

If a petition contains more than 1,500 signatures it will be debated by the Full Council or Cabinet as appropriate (depending on whether the matter relates to an Executive or Council responsibility) unless it is a petition asking for a senior Council officer to give evidence at a public meeting.

~~This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.~~ The Council/ Cabinet will endeavour to consider the petition at its next ordinary meeting although on some occasions this may not be possible and it will then be referred to the next following meeting.

A maximum of two members of a deputation may address the Council/ Cabinet for no longer than five minutes each, in line with the Council and Committee Procedure rules for addressing Full Council. One of these speakers should be the petition organiser. The petition will then be discussed by Councillors for a maximum of 15 minutes.

The Council/ Cabinet will decide how to respond to the petition at this meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee or Board. ~~Where the issue is one on which the Council's Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision.~~ The petition organiser will receive written confirmation of the decision. This confirmation will also be published on the Council's website.

Officer evidence

A petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, the petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 750 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny Committee. The senior officers that can be called to give evidence are those officers who are members of the Council's Management Team. Their details can be found on the Council's website.

Part 4 – Rules - Petition Scheme

The Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in a petition; for instance if the named officer has changed jobs. The committee may also decide to call the relevant Portfolio Holder to attend the meeting. Committee members will ask the questions at this meeting, but the petition organiser will be able to suggest questions to the Chairman of the Committee by contacting the Democratic Services team at the above address, on committee.services@tmhc.gov.uk or on 01732 876023/01732 876025 up to three working days before the meeting.

E-petitions

The Council introduced e-petitions on 15 December 2010. A committee management system (Modern.Gov) provides a facility for members of the public to create and submit an e-petition through the Council's website. This allows petitions and supporting information to be made available to a potentially much wider audience than a traditional paper based petition.

E-petitions will follow the same guidelines as paper petitions.

The petition organiser will need to provide us with their name, postal address and email address and will also need to decide how long the petition is to be open for signatures. Most petitions are expected to run for six months, but you will be able to choose a shorter or longer timeframe, up to a maximum of 12 months.

When you create an e-petition, it may take five working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature. If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to our Democratic Services team. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the Council, please contact Democratic Services as above within 10 working days of receipt of the acknowledgement. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

All the e-petitions currently available for signature will be on our website.

When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the

email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

There is a preference for e-petitions to be submitted via the Borough Council's online system as it cannot be guaranteed that other e-petition platforms, such as Change.org or other similar providers, can be verified sufficiently to meet the required criteria. Where e-petitions are submitted via an alternative provider the Borough Council require hard copies to be provided for administration and audit purposes.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.

The Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine the Council has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Cabinet and arranging for the matter to be considered at a meeting of the Full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website