

SUMMARY AND EXPLANATION

<p>The Council's Constitution</p>
<p>Tonbridge & Malling Borough Council has adopted a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.</p> <p>The Constitution is divided into 11 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.</p>
<p>What's in the Constitution?</p>
<p>Article 1 sets out the purpose of the Constitution, which is to help the Council realise its vision for the future of Tonbridge & Malling. It also indicates how disputes as to the interpretation of the Constitution may be resolved.</p> <p>Articles 2-11 explain the rights of citizens and how the key parts of the Council operate.</p> <p>These are:</p> <ul style="list-style-type: none"> (Article 2) - Members of the Council (Article 3) - Citizens and the Council (Article 4) - The Full Council (Article 5) - Chairing the Council (Article 6) - The Executive (Article 7) - Joint Arrangements (Article 8) - Decision Making (Article 9) - Finance, Contracts and Legal Matters (Article 10) - Review and Revision of the Constitution (Article 11) - Suspension, Interpretation and Publication of the Constitution
<p>How the Council operates</p>
<p>The Council is composed of 54-44 councillors elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.</p> <p>Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Joint Standards Committee trains and advises them on the code of conduct.</p>

All councillors meet together as the Council. Meetings of the Council are normally open to the public unless items to be discussed are exempt from publication or are of a confidential nature. Here councillors decide the Council's overall policies and set the budget each year. The Council appoints the Leader of the Council and the Leader appoints the other members of the Executive (sometimes called the "Cabinet") which takes decisions about the running of the Council and the implementation of its policies. It also appoints the members of the Overview & Scrutiny Committee and all other committees of the Council.

The Council holds the Executive and other Council committees to account for the decisions they take.

How decisions are made

The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive is made up of the Council Leader, Deputy Council Leader and between one and eight other councillors appointed by the Leader. When major decisions are to be discussed or made, these are published in the Notice of Forthcoming Key Decisions in so far as they can be anticipated. Meetings of the Executive (Cabinet) will generally be open for the public to attend except where personal or confidential matters are being discussed. The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

Overview and Scrutiny

There is an Overview and Scrutiny Committee which, [together with the 3 Overview and Scrutiny Select Committees](#) supports the work of the Executive and the Council as a whole. This allows members outside the Executive and citizens to have a greater say in Council matters by holding public inquiries into matters of local concern when appropriate. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These inquiries lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the Executive. It can 'call-in' a decision which has been made by the Executive but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the Executive reconsider the decision. The Committee/ [Select Committees](#) may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council has staff working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between officers and members of the council (see Part 5 of the Constitution).

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific council services they may have additional rights not covered in this Constitution.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen please contact the Chief Executive. Part 4 (Access to Information) of this Constitution contains information on the rights of citizens to inspect agendas and reports and attend meetings.

A wide range of information related to the Council's decision making processes, forthcoming meetings and details of elected representatives can be found [online](#)

ARTICLE 2 – MEMBERS OF THE COUNCIL

2.01	Composition and Eligibility
(a)	Composition:
<p>The Council will comprise 54-44 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission and approved by the Secretary of State.</p>	
(b)	Eligibility:
<p>Only qualifying Commonwealth, Republic of Ireland or EU citizens who are over 18 and:</p> <ul style="list-style-type: none"> - Registered local government electors of the Borough; or - Living, working or occupying land as an owner or tenant there (at the time when nominations are made for candidates for election and for the previous 12 months) <p>will be eligible to hold the office of councillor.</p>	
2.02	Election and terms of councillors
<p>The regular election of all councillors will be held on the first Thursday in May every four years. The terms of office of councillors will start on the fourth day after being elected and finish on the fourth day after the date of the regular election four years later.</p>	
2.03	Roles and Functions of All Councillors
(a)	Key Roles:
<p>All Councillors will:</p>	
(i)	collectively be the ultimate policy makers and carry out a number of strategic and corporate management functions;
(ii)	contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
(iii)	represent their communities and bring their views into the Council's decision-making processes, i.e. become the advocate of and for their communities;

(iv)	be involved in decision-making, including attending relevant member training for the committees and bodies on which they sit;
(v)	maintain the highest standards of conduct and ethics;
(vi)	balance different interests identified within the ward and represent the ward as a whole;
(vii)	participate in the governance and management of the Council;
(viii)	be available to represent the Council on other bodies;
(ix)	deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances; and
(x)	respond to constituents' enquiries and representations, fairly and impartially.
(b)	Rights and Duties:
(i)	Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
(ii)	Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
(For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.)	
2.04	Conduct
Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.	
2.05	Allowances
Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.	

PANELS TO ADVISE THE EXECUTIVE

The Council has adopted the following scheme for Panels:	
1.	The rules set out in Part 4 (Council and Committee Procedure Rules) of the Constitution shall, so far as applicable, apply to the advisory panels, save that meetings of the bodies marked ['Private' in the tables shall not be subject to the Access to Information Procedure Rules.
2.	Advisory panels may be chaired by a member of the Executive and their purpose is to advise the Executive in connection with specific projects or to act as liaison bodies with other organisations and partners.
3.	(a) The following tables set out the titles, terms of reference and membership of the advisory panels.
	(b) Except where otherwise indicated, the membership of the advisory panels shall be politically balanced.
4.	(a) The advisory panels marked [P] in the table will be programmed to meet at least twice per year.
	(b) The advisory panels marked [NP] in the table will not be programmed to meet, but meetings will be convened as and when necessary for the efficient discharge of business. It will be for the Leader to determine if a meeting is necessary in consultation with the Chair of the relevant advisory panel.
	(c) Where a matter falls to be reported to an advisory panel for which meetings are not programmed the matter may, with the concurrence of the chair of the advisory panel concerned, be reported to a meeting of an appropriate programmed advisory panel or board.

Table 1: Advisory Panels

Title:	Parish Partnership Panel [P]
Membership:	14 Members; not politically balanced.
Quorum:	N/A
Terms of Reference:	A vehicle for the exchange of information, consultation and a structured dialogue between the Borough Council and the parish councils in the Borough.

Title:	Tonbridge Community Forum (previously Tonbridge Forum) [P]
Membership:	15 14 Members representing Tonbridge wards*; not politically balanced. * Cage Green & Angel, Higham, Hildenborough, Judd, Trench and Vauxhall
Quorum:	N/A
Terms of Reference:	A vehicle for the exchange of information, consultation and a structured dialogue between the Borough Council and those Tonbridge-based organisations with a shared interest in enhancing the well-being of the town through the identification of problems and joint working towards solutions.

Table 2: Other Member Groups

Title	Terms of reference	Membership
Housing Associations Liaison Panel [NP] 'Private'	Liaison with housing providers as necessary	5 Members, including the Executive Member for Housing as Chair
Joint Employee Consultative Committee [NP] 'Private'	<p>To promote the closest understanding and co-operation between the Council and its employees, through their representatives.</p> <p>To provide a systematic means of communication between the Council and its employees, through their representatives.</p> <p>To give employees, through their representatives, the opportunity to discuss and express views about Council decisions which affect them.</p>	Membership and Chair determined in accordance with the JECC Constitution
Joint Transportation Board [P] <u>Quorum:</u> 4 Members of the Board (comprising 2 Borough and 2 County Members)	<p>To advise the KCC Executive on:</p> <ul style="list-style-type: none"> - capital and revenue funded works programmes within limits set by the KCC Executive - the Highway Unit's Annual Business Plan <p>To advise the TMBC Executive on:</p> <ul style="list-style-type: none"> - Any decisions to be taken by the Executive in relation to functions delegated to TMBC under the agreement - Parking orders, taxi rank locations and street management schemes (management schemes do not include street trading consents) <p>And to:</p>	Membership and Chair alternating between KCC and TMBC

	<ul style="list-style-type: none">- review the progress and out-turn of works programmes- review the performance of Kent Highway Services in the Borough- be a forum for consultation between KCC and TMBC on policies, plans and strategies related to highways, road traffic and public transport	
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RESPONSIBILITY FOR COUNCIL FUNCTIONS

Committees – Membership and Terms of Reference

The Council may make arrangements under Section 101 of the Local Government Act 1972 for the discharge of any of its functions by:	
(a)	A committee;
(b)	A sub-committee;
(c)	A joint committee;
(d)	Another local authority;
(e)	An officer
The following functions will be the responsibility of the Council itself, but will be delegated to committees or sub-committees, as specified. A number of the functions set out here are further delegated to officers of the Council.	

1.	Area Planning Committees	
Size and Membership:		
Area 1 Planning Committee	To consist of the members elected for the following wards: Cage Green & Angel; Castle ; Hadlow & East Peckham ; Higham; Hildenborough; Judd; Medway ; Trench; and Vauxhall <u>(Total – 14 members)</u>	
Area 2 Planning Committee	To consist of the members elected for the following wards: <u>Birling, Leybourne & Ryarsh</u> ; Borough Green & Long Mill Platt ; Downs & Mereworth <u>Bourne</u> ; <u>East Peckham</u> , <u>West Peckham</u> , <u>Mereworth and Wateringbury</u> Hadlow & East Peckham ; Kings Hill; Wateringbury ; <u>East Malling</u> , <u>West Malling</u> & <u>Leybourne</u> Offham ; <u>Wrotham</u> ; <u>Pilgrims with Ightham</u> & Stansted <u>(Total – 16 members)</u>	

Area 3 Planning Committee	<p>To consist of the members elected for the following wards:</p> <p>Aylesford North & Walderslade<u>North Downs</u>; Aylesford South & <u>Ditton</u>; Burham, and Wouldham; Ditton; <u>East Malling</u>; Larkfield North; Larkfield South; Snodland East & Ham Hill; and Snodland West & Holborough Lakes; <u>and Walderslade</u></p> <p><u>(Total – 14 members)</u></p>	
<p>For the avoidance of doubt, a member of the Executive may serve on an area planning committee if eligible to do so as a councillor</p> <p>(Quorum: 4 Members of the individual Planning Committee)</p>		
<p>Terms of Reference:</p>		
<p>Each Area Planning Committee has been appointed to make decisions on planning applications and related matters and exercise all functions of the Council as the Local Planning Authority relating to their respective wards as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 except where recommended for approval in fundamental conflict with the plans and strategies which together comprise the Development Plan.</p> <p>Where a Committee rejects a recommendation to approve, or is minded to refuse, an application which is recommended for approval by the Director of Planning, Housing and Environmental Health on grounds which the Director does not consider can be substantiated at appeal, the matter shall be deferred to the next meeting of the Committee to enable the Director of Central Services & Deputy Chief Executive to submit an independent report to the Committee on the possibility of costs being awarded against the Council. If the Director of Central Services & Deputy Chief Executives report indicates that there is likely to be a significant risk of costs being awarded against the Borough Council and the Committee resolves to refuse the application that decision will be a recommendation only and the matter shall be submitted to Council for resolution.</p> <p>These functions shall include (but are not restricted to):</p>		
1.	Applications for planning permission under the Town and Country Planning Act 1990 ("the 1990 Act")	
2.	Applications for consent to the cutting down, topping, lopping or destruction of trees.	
3.	Applications for determination under Sections 191 and 192 of the 1990 Act.	
4.	Applications for listed building and conservation	

	area consent under the Planning (Listed Buildings and Conservation Areas) Act 1990.	
5.	Applications for consent under regulations Sections 220 and 221 of the 1990 Act to display advertisements.	
6.	Applications for consent under regulations under Sections 220 and 221 of the 1990 Act to display advertisements.	
7.	Applications for approvals required by a development order or by conditions imposed on the grant of planning permission and applications for determination as to whether prior approvals are required.	
8.	To authorise the issue of Building Preservation Notices pursuant to Section 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Except in cases where the Director of Planning, Housing and Environmental Health and Director of Central Services & Deputy Chief Executive consider there may be a liability for payment of compensation
9.	To exercise powers in relation to the service of enforcement notices under Parts VII and VIII of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
10.	To exercise powers in relation to the service of Planning Contravention Notices under section 171C of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
11.	To exercise powers in relation to the service of Breach of Condition Notices under section 187A of the Town and Country Planning Act 1990 and to take all further steps up to and including prosecution.	
12.	To exercise powers in relation to the service of Stop Notices under Parts VII and VIII of the Town and Country Planning Act 1990	Except in cases where the Director of Planning, Housing and Environmental Health and Director of Central

		Services & Deputy Chief Executive consider there may be a liability for payment of compensation
13.	To exercise powers in relation to the service of Listed Building Enforcement Notices under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to take all further steps up to and including prosecution.	
14.	Orders for modification or revocation of planning permissions.	Where served with the agreement of the owner
15.	To authorise the issue of Completion Notices under Section 94 Town and Country Planning Act 1990.	
16.	To resolve to serve Article 4 Directions under the Town and Country Planning (General Permitted Development) Order 1995.	
17.	To confirm Directions made under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995	Where objections are received
18.	To deal with objections to tree preservation orders and to determine whether orders shall be confirmed.	
19.	The approval or disapproval of plans for the laying-out of new streets and erection of buildings under the Building Act 1984 and the Building Regulations 1991.	
20.	To exercise the Council's powers under Section 36 of the Building Act 1984 (power to require the removal or alteration of work not in conformity with the building regulations or executed notwithstanding the rejection of plans)	
21.	To make recommendations on Local Plans and Development Briefs and to approve Development Briefs where they are produced pursuant to the requirements of a planning permission.	
22.	To submit views on behalf of the District Planning Authority in relation to the consultations under the Pastoral Measure 1968.	

23.	To consider and approve for consultation purposes Draft Conservation Areas	Formal designation of Conservation Areas reserved to Council

24.	Under the Hedgerows Regulations 1997:	
(a)	to deal with notifications under Section 75 of the Environment Act 1995 and the Regulations and to authorise the service of Hedgerow Retention Notices; and	
(b)	to exercise powers in relation to the service of notices requiring the replanting of important hedgerows under Section 75 of the Environment Act 1995 and the Regulations.	
Highways Use and Regulation		
25.	Each Area Planning Committee shall also exercise the functions of the Council relating to the regulation of the use of highways, as set out in Schedule 1 to the Functions Regulations	

2.	Audit Committee
Size and Membership:	
To consist of seven members and it shall be politically balanced, none of whom may be a member of the Executive. (Quorum: 3 Members of the Committee)	
Terms of Reference:	
The Committee shall provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes. By overseeing internal and external audit it makes an important contribution to ensuring that effective assurance arrangements are in place. It shall also provide independent assurance on the effectiveness of the control environment, including arrangements for value for money and countering fraud. The functions of the committee shall include:	
1.	To consider the Chief Audit Executive annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's corporate governance arrangements.
2.	To consider summaries of specific internal audit reports as requested.
3.	To consider reports dealing with the management and performance of the providers of internal audit services.
4.	To consider a report from internal audit on agreed recommendations not implemented within a reasonable timescale.
5.	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
6.	To consider initially general and specific audit reports from the successors to the Audit Commission, the External Auditor and the Director of Finance and Transformation, to make recommendations to Council for future action and to monitor the Council's implementation of those recommendations.
7.	To consider specific reports as agreed with the external auditor
8.	To comment on the scope and depth of external audit work and to ensure it gives value for money
9.	To oversee the appointment of the Council's external auditor.

10.	To commission work from internal and external audit.
11.	To monitor the effective development and operation of risk management and corporate governance in the Council.
12.	To monitor council policies on 'Raising Concerns at Work' and the Anti-Fraud and Anti-Corruption Strategy and the Council's complaints procedure.
13.	To oversee the production of the authority's statement on internal control and to recommend its adoption.
14.	To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
15.	Effectiveness of the control environment including arrangements for value for money and countering fraud.
Corporate Governance Framework	
16.	To maintain an overview of the Council's Constitution in respect of Contract Procedure Rules, Financial Procedure Rules and Codes of Conduct and behaviour.
17.	To review any issue referred to it by the Chief Executive or a Chief Officer or any Council body.
18.	To consider the Council's compliance with its own and other published standards and controls.
Accounts	
19.	To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
20.	To consider the external auditor's report to those charged with governance on issue arising from the audit of the accounts.
Treasury Management	
21.	To consider reports on Treasury Management Activity and the formulation of the Treasury Management and Annual Investment Strategy

3.	General Purposes Committee
Size and Membership:	
To consist of 14 members and it shall be politically balanced (Quorum: 4 Members of the Committee)	
Terms of Reference:	
<ul style="list-style-type: none"> - Byelaws - Elections - Employment - Health and Safety - Local or Personal Bills - Miscellaneous Functions - Name and Status of areas and individuals - Pensions - Standards 	
The functions of the committee shall include:	
1.	To deal with all matters relating to European, Parliamentary and Local Elections and Parish Council Elections (in consultation with the Parish Council), electoral registration and representation including all matters in respect of Constituency, Borough, ward and parish boundaries.
2.	To deal with all matters relating to byelaws, including the power to make, amend and revoke such byelaws (where those matters are not dealt with by any other committee).
3.	To advise the Council upon the exercise of its powers to promote or oppose local or personal Bills.
4.	To consider any request to change the name of a town or parish within the Borough and to make recommendations to Council.
5.	To discharge all matters relating to the Council's responsibilities as an employer, including functions relating to local government pensions, etc., which are not the responsibility of the Executive.
6.	To discharge all other functions which are the responsibility of the Council (other than those required by statute to be taken by the Council itself) as set out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 where those functions do not fall within the purview of another committee. (Miscellaneous Function).
7.	To exercise the Council's functions relating to health and safety under any relevant statutory provision within the meaning of Part I of the Health and Safety at Work etc Act 1974 to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

8.	To exercise the Council's function relating to smoke-free workplaces, etc., under the Health Act 2006, Smoke-free (Premises and Enforcement) Regulations 2006 and any other related regulations to the extent that those functions are discharged otherwise than in the Council's capacity as employer.
9.	To advise the Borough Council on the adoption of or revisions to its Code of Conduct.
10.	To monitor and assess the operation and effectiveness of the Code of Conduct.
11.	To advise on ethical governance protocols and procedures.
12.	To grant dispensations pursuant to section 33(2) of the Localism Act 2011 and paragraph 8 of the adopted Code of Conduct where:
(a)	Without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on that matter;
(b)	That the Committee considers that the dispensation is in the interests of persons living in its area; or
(c)	Where the Committee considers that it is otherwise appropriate to grant a dispensation.

4.	Joint Standards Committee
The Council has established a Joint Standards Committee with all of the Parish Councils within the Borough.	
Size and Membership: (Quorum 4 Members of the Committee)	
To consist of thirteen members of the Council, six parish representatives (to be drawn on a pool basis from amongst the members appointed to represent the town and parish councils).	
Terms of Reference:	
The Joint Standards Committee will have the following roles and functions:	
1.	To promote and maintain high standards of conduct by Members and Co-opted Members of the Borough Council and to make recommendations to Council on improving standards.
2.	To advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct and to make recommendations to Parish/Town Councils on improving standards.
3.	To advise, train or arrange to train Borough Members, Co-opted Members and Parish/Town Councillors on matters relating to the Code of Conduct.
4.	To assist the Borough Councillors, Co-opted Members and Parish/Town Councillors to observe their respective Codes of Conduct
5.	To review and manage the arrangements for dealing with Code of Conduct complaints.
6.	To maintain oversight of the Borough Council's arrangements for dealing with Code of Conduct complaints
7.	To act as an advisory body in respect of any ethical governance matter.
8.	To monitor and review the procedures for the Register of Members' Interests and declaring gifts and hospitality.
9.	To receive quarterly reports (or less frequently if there are no complaints to report) from the Monitoring Officer on the number and nature of complaints received and action taken as a result in consultation with the Independent Person.
10.	To receive an annual report on the Borough Council's ethical governance arrangements.
11.	To appointment a sub-committee to deal with Code of Conduct complaints, following investigation.

5.	Licensing and Appeals Committee
Size and Membership:	
To consist of 15 members and it shall be politically balanced. (Quorum: 4 Members of the Committee)	
Where any application or complaint falls to be determined by the Committee sitting as a sub-committee (Panel), there shall be constituted a panel of not less than three nor more than five Members drawn from amongst the Members of the Committee by the Chief Executive in consultation with the Chairman of the Committee, and the Panel may exercise the functions of the Committee in relation to the application or complaint in question. Where a sub-committee is exercising the functions of the Committee under the Licensing Act 2003, it shall comprise 3 Members drawn from the Members of the Committee.	
Terms of Reference:	
Licensing and registration	
(a)	Except as provided in the Licensing Act 2003 and Gambling Act 2005 and any regulations made thereunder; the discharge of all functions of the Borough Council as licensing authority set out in those Acts.
(b)	The discharge of all functions of the Borough Council relating to hackney carriage and private hire licensing, including the licensing of vehicles, drivers and operators; and
(c)	The discharge of all other functions relating to licensing and registration in so far as they are the responsibility of the Borough Council
Determination of Appeals	
To determine appeals made:	
(d)	against any decision made by or on behalf of the authority except where there is a statutory appeals procedure
(e)	under either grievance or disciplinary procedures (including grading) for all categories of employees
The functions of the Committee shall include (but not be limited to):	
1.	To deal with all matters relating to licences, registrations and permits within the purview of the Council

2.	<ul style="list-style-type: none"> - To designate streets in accordance with paragraph 2 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in respect of street trading provisions. - Licences for houses in multiple occupation under the Housing Act 2004 (where objections made). - Scrap metal dealing under the Scrap Metal Dealers Act 2013 <p>To exercise all of the Council's powers relating to charitable collections.</p>
3.	To exercise all of the Council's powers under Part V of the Disability Discrimination Act 1995.
4.	To determine staff grading appeals and disciplinary appeals not within officer responsibilities under the Council's disciplinary procedures
5.	Determination and implementation of the Council's policy in respect of the licensing of caravan sites and moveable dwellings, including the adoption and enforcement of standards.
6.	To deal with such other appeals as need Member determination.

5.1	Panels of the Licensing and Appeals Committee dealing with Alcohol and Entertainments and Gambling Licensing <i>(Constituted in accordance with the provisions of the Licensing Act 2003)</i>	
To determine the following applications under the Licensing Act 2003		
1.	Application for personal licence	If a police objection
2.	Application for personal licence with unspent convictions	All cases
3.	Application for premises licence/club premises certificate	If a relevant representation made
4.	Application for provisional statement	If a relevant representation made
5.	Application to vary premises licence/club premises certificate	If a relevant representation made
6.	Application to vary designated premises supervisor	If a police objection
7.	Application for transfer of premises licence	If a police objection
8.	Applications for interim authorities	If a police objection
9.	Application to review premises licence/club premises certificate	All cases
10.	Decision to object when Council is a consultee and not the relevant authority considering the application	All cases
11.	Determination of a police objection to a temporary event notice	All cases
12.	To make orders under section 6 of the Gaming Act 1968 and grant of permits under section 16 of the Lotteries and Amusements Act 1976 be exercised by the Committee's panels	All cases
To determine the following applications under the Gambling Act 2005		
13.	Application for premises licence	If a relevant representation made

6.	Overview and Scrutiny Committee
Size and Membership: (Quorum: 4 Members of the Committee)	
To consist of 18 members and shall be politically balanced, none of whom may be a member of the Executive.	
The Overview and Scrutiny Committee will have the power to co-opt any person(s) it thinks appropriate (except for members of the Executive and officers of the Council) onto the committee, on whatever basis it thinks appropriate. Co-opted members may speak in debates but not vote. The Borough Council has approved a Scheme of Co-option as set out in Part 4, Overview and Scrutiny Procedure Rule 3.1	
The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.	
Terms of Reference:	
The Overview and Scrutiny Committee shall discharge the following general functions	
1.	review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Executive;
2.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are the responsibility of the Executive;
3.	review or scrutinise decisions (other than individual regulatory decisions) made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Executive;
4.	make reports or recommendations to the authority or the Cabinet with respect to the discharge of any functions which are not the responsibility of the Executive;
5.	make reports or recommendations to the authority or the Executive on matters which affect the authority's area or the inhabitants of that area; and
6.	exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive
The power of the Overview and Scrutiny Committee under 1 above to review or scrutinise a decision made but not implemented includes power:	
7.	to recommend that the decision be reconsidered by the person who made it; or
8.	to arrange for its function under subsection 1, so far as it relates to the decision, to be exercised by the authority.

Specific Functions:	
Policy Development and Review	
The Overview & Scrutiny Committee may	
9.	assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
10.	conduct research, community and other consultation in the analysis of policy issues and possible options;
11.	consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
12.	question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area;
13.	liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
Scrutiny	
The Overview & Scrutiny Committee may	
14.	review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
15.	review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
16.	question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
17.	make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
18.	review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the committee and local people about their activities and performance;
19.	question and gather evidence from any person (with their consent).

Finance	
20.	The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to it
Annual Report	
21.	The Overview and Scrutiny Committee must report annually to the full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.
Officers	
22.	The Overview & Scrutiny Committee may exercise overall responsibility for the work programme of the officers employed to support its work.
The Overview and Scrutiny Committee or a sub-committee of such a committee:	
(a)	may require members of the Executive, and officers of the authority, to attend before it to answer questions;
(b)	may require any other member of the Borough Council to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England); and
(c)	may invite other persons to attend meetings of the committee.
It is the duty of any member or officer mentioned in paragraphs (a) or (b) above to comply with any requirement mentioned in that paragraph. However, a person is not obliged to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.	
The Borough Council has designated the Policy, Scrutiny and Communities Manager as the Scrutiny Officer for the purposes of the Local Government Act 2000.	

2. CHIEF OFFICERS:

The full Council will, in accordance with the Officer Employment Procedure Rules, engage persons for the following posts, who will be designated chief officers. The Chief Executive and chief officers with the title "Director" will together comprise the Chief Officer Management Team:

Post	Functions and areas of responsibility
Chief Executive	Chief policy adviser to the Council
	Overall corporate management and operational responsibility (including overall management responsibility for all officers)
	Provision of professional advice to all parties in the decision making process
	Together with the monitoring officer, responsibility for a system of record keeping for all the Council's decisions
	Representing the Council on partnership and external bodies (as required by statute or the Council)
	Electoral Services
	The service responsibilities identified in this Part of the Constitution.
Director of Central Services and Deputy Chief Executive	Overall management and operational responsibility and provision of professional advice to all parties in the decision-making process in relation to:
	<ul style="list-style-type: none"> - Community and Safety - Customer Services - Land Charges - Legal and Democratic Services - Licensing Services - Media and Communication<u>s</u> - Personnel, Training and Development - <u>Administrative &</u> Property Services - Public Rights of Way

Director of Finance and Transformation	Overall management and operational responsibility and provision of professional advice to all parties in the decision-making process in relation to financial services including:
	<ul style="list-style-type: none"> - Accountancy - Benefits - Council Tax/Business Rates - Exchequer Services - Internal Audit
	Overall management and operational responsibility for Information Technology
Director of Planning, Housing and Environmental Health	Overall management and operational responsibility and provision of professional advice to all parties in the decision-making process in relation to:
	<ul style="list-style-type: none"> - Building Control - Development Control - Environmental Health - Environmental Strategy/Local Agenda 21 - Housing - Planning Policy & Transportation
Director of Street Scene, Leisure and Technical Services	Overall management and operational responsibility and provision of professional advice to all parties in the decision making process in relation to:
	<ul style="list-style-type: none"> - CCTV - Indoor Leisure Facilities (Leisure Trust) - Leisure Development (sports, arts, tourism, events) - Outdoor Leisure Facilities - Refuse Collection/Recycling - Street cleansing - Traffic Management & Car parking

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 them with any person they know 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 (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 their 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.
<i>*relevant officer means the Chief Finance Officer, Head of the Council's Paid Service or the Monitoring Officer as the case may be.</i>	
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).	

ARTICLE 8 – DECISION MAKING

8.01	Responsibility for Decision Making
<p>The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of the Constitution.</p>	
8.02	Principles of Decision Making
<p>Under the Constitution decisions are likely to be taken by the full Council, the Executive (collectively and/or by individual members of the Executive), committees and sub-committees and by officers. Whichever body or individual is responsible for taking a decision, all decisions of the Council will be made in accordance with the following principles:-</p>	
<ul style="list-style-type: none"> - decisions should be taken reasonably, with regard to relevant considerations and ignoring irrelevant factors; - realistic alternatives should be evaluated prior to decisions being taken; - there should be a presumption in favour of openness and transparency with members of the public being afforded effective access to relevant information and the processes by which decisions are taken; - due consultation should take place with those likely to be affected by a decision, especially where the decision is likely to have a wide ranging or significant impact on the community; - decision making should, so far as practicable, be planned in advance with due public notification of forthcoming decisions; - decisions should have regard to proportionality – i.e. the action must be proportionate to the desired outcome; - appropriate professional advice should be obtained from suitably qualified officers of the authority; - decisions should be taken on the basis of clear aims and desired outcomes from the resultant actions; - decisions should have regard to relevant approved policies and adopted procedures of the Council; they must be lawful, and sufficient budgetary provision should exist; 	

<p>- decisions taken must be formally recorded in accordance with the requirements of the Constitution; in respect of executive decisions, the formal record should state what options were considered and give the reasons for the decision taken.</p>	
<p>In some cases (e.g. where urgent action is necessary or where confidential matters are under discussion) it may not be possible to fully comply with all of the above principles. Decision makers should satisfy themselves that they have been complied with so far as reasonably practicable in the circumstances.</p>	
8.03	Types of Decision
(a)	Decisions reserved to Full Council
<p>Decisions relating to the functions listed in Article 4.02 (Functions of the Full Council) will be made by the full Council and not be delegated.</p>	
(b)	Key Decisions
(i)	<p>A 'key decision' means an executive decision which is likely either:</p> <ul style="list-style-type: none"> - to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or - to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority
(ii)	<p>A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.</p>
<p>For the purpose of subsection (b) (i) above, the term 'significant' when applied to expenditure or savings shall mean a sum more than £100,000 or such other sum as may be specified in any enactment or other statutory provision.</p>	
8.04	Decision making by the Full Council
<p>The Council meeting will follow the Council and Committee Procedures Rules set out in Part 4 of this Constitution when considering any matter, subject to Article 8.08</p>	
8.05	Decision making by the Executive
<p>The Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter, subject to Article 8.08</p>	

8.06	Decision making by Overview and Scrutiny Committee
Overview and Scrutiny Committee and Scrutiny Select Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.	
8.07	Decision making by other committees and sub-committees established by the Council
Other Council committees and sub-committees will follow those parts of the Council & Committee Procedures Rules set out in Part 4 of this Constitution as apply to them, subject to Article 8.08	
8.08	Decision making by Council bodies acting as tribunals
The Council, a councillor or an officer acting as tribunals or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a lawful procedure which will be made available to all parties.	